

**COMMONWEALTH OF
MASSACHUSETTS**

LAND COURT

GUIDELINES

ON

REGISTERED LAND



May 1, 2000

Introduction

For many years, the Court has issued periodic guidance to personnel in the registry districts, to assist in determining the suitability of documents presented for filing and affecting registered land. The following Guidelines update and replace those periodic issuances, and collect them in a single manual for convenient reference.

For the most part, the Guidelines reflect and clarify existing Court and registry practice. In some instances, the guidance represents a departure from existing or past practice. In all cases, our purpose is to provide clear guidance to registry personnel and members of the bar alike, so as to reduce the number of instances in which documents are refused for filing at the registry desk because they are not in proper form.

We wish to emphasize that the Guidelines are just that, and not firm rules. We do not intend that the Guidelines should eliminate the exercise of sound judgment by registry personnel in assessing whether a particular document may be accepted for filing. The registry districts retain the right to refer to the Court any question they may have about the propriety of any document presented for filing, if, in the judgment of registry personnel based on the nature of the document and the facts and circumstances attendant to its presentation for filing, there exists a question regarding its suitability for filing – even where the document falls within the literal application of these Guidelines. Nonetheless, we have attempted to provide guidance that will allow treatment of most documents in a manner consistent with the Guidelines.

The Guidelines are the product of the combined efforts of a great many people, within and outside the Court. We wish to acknowledge in particular the contributions of the following attorneys, who provided perspective, commentary and drafting assistance over the past two years: William V. Hovey, Howard L. Levin, Katharine F. Lewis, Gordon H. Piper, Joel A. Stein, Philip D. Stevenson and Henry H. Thayer. In addition, we appreciate the assistance and insight we received from the Registers of Deeds generally, and in particular Richard P. Howe, Jr., John F. Meade and Richard C. Siebert.

Chief Justice Kilborn adds his particular thanks to the Court's Recorder, Charles W. Trombly, Jr., and Chief Title Examiner, Margaret D. Cronin, for their valuable assistance, and to Justice Mark V. Green for his leadership on this project.

We hope you find these Guidelines useful.

Chief Justice Peter W. Kilborn
Recorder Charles W. Trombly, Jr.
Chief Title Examiner Margaret D. Cronin

May 1, 2000

Boston, Massachusetts

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1. Acknowledgments: Requirements

An acknowledgment should be dated; however, the date of the acknowledgment may be either before or after the date of execution appearing on the instrument (regardless of length of time).

The name of the notary or other official before whom the acknowledgment has been made should be legible. It is suggested that the name of the notary or other official taking the acknowledgment be typed or printed below the signature line for such notary or other official.

The date that a notary public's commission expires should be indicated beneath the name of the notary public.

The following documents must be acknowledged in order to be recorded:

- 1.) Deeds (excepting conveyances from the United States) - see MGL Chapter 183 sec. 29. Included in this category, based on the broad definition of deed, are easement deeds, mortgage deeds, deeds of trust, release deeds found in boundary line agreements, leases, notices of leases, options to purchase, options to lease, assignments of mortgages, collateral assignments of mortgages and collateral assignments of leases.
- 2.) Purchase and Sale Agreements; see MGL Chapter 54 sec. 17A.
- 3.) Discharges and Partial Releases pursuant to MGL Chapter 183 sec. 54, 54B and 54C.
- 4.) Powers of Attorney; see MGL Chapter 183 sec. 32.
- 5.) Homesteads and releases of same; see MGL Chapter 188.
- 6.) Receipts of federal revenue collectors for succession taxes; see MGL Chapter 36 sec. 16.
- 7.) Subdivision Covenant Releases and Clerk's Certificates; see MGL Chapter 41 sec. 81u.
- 8.) Tax redemptions; see MGL Chapter 60 sec. 62.

- 9.) Incorporation certificates re Roman Catholic Church; see MGL Chapter 68 sec. 44.
- 10.) Liens for failure to reimburse the Commonwealth of Massachusetts for removal of wharfs or piers; see MGL Chapter 91 sec. 49B.
- 11.) Veteran's agent liens and discharges or satisfactions thereof; see MGL Chapter 115 sec. 5A.
- 12.) Dissolutions of attachments by plaintiff, or his executor, administrator or attorney of record; see MGL Chapter 223 sec. 132.
- 13.) Notices or other instruments required or required or permitted to be recorded by MGL Chapter 254; see MGL Chapter 254 sec. 30.
- 14.) Release of Notice of Contract.
- 15.) Planning Board Release.
- 16.) Declaration of Trust.
- 17.) Resignation of Trustee.
- 18.) Release of Damages (General Releases).

Instruments not on this list do not require acknowledgments in order to be registered.

2. Acknowledgments Outside The United States

When a deed or other written instrument is acknowledged outside of the United States, it may be made

a) Before a notary public or justice of the peace provided that the identity and office of the notary public or justice of the peace are authenticated by a certificate described in MGL c. 183, sec. 33, sometimes called an “apostille”, issued by the competent authority of the country from which the document emanates. A model of an apostille is attached. The apostille need not be in English.

or

b) Before a commissioner appointed by the governor of the Commonwealth of Massachusetts pursuant to MGL c. 222.

or

c) Before an ambassador, minister, consul, vice consul, charge d’affaires or consular officer or agent of the United States accredited to the country where the acknowledgment is made, provided that it is certified by him/her under his/her seal of office.

MGL. c. 183, sec. 30 (b) and (c) and sec. 33.

Model of certificate

APOSTILLE

1. Country:
This public document
2. has been signed by
3. acting in the capacity of
4. bears the seal/stamp of

Certified

5. at 6.
7. by
8. N*
9. Seal/stamp: 10. Signature:

3. Administrative Agent for Multiple Lenders

This Guideline relates to mortgages in which the mortgagee is stated to be an agent for several lenders whose identity is not disclosed in the mortgage. Typically the loan is being made to the borrower pursuant to a Credit Agreement which is not of record.

These mortgages can be dealt with in a fashion similar to the requirements for nominee trusts, that is, the names of the lenders need not be disclosed so long as there are the requisite indicia of authority for the agent to act with respect to the mortgage, just as the beneficiaries of a nominee trust need not be identified.

The mortgage must be presented with a certificate from the bank or other entity acting as agent; alternatively, the statements required for a certificate may be made part of or appended to the mortgage, if the agent also executes the mortgage.

The certificate must refer to the Credit Agreement or other comparable governing document, set forth the authority of the agent as to the execution of documents including amendments, and any time limits on the authority of the agent. A form of certificate is attached.

These mortgages, when presented with a certification in a form substantially similar to the attached certificate, will not require prior Land Court approval before being accepted for registration.

CERTIFICATE OF AGENT

The undersigned, _____ Bank as administrative agent for itself and other lenders under the terms and provisions of a certain _____ Agreement (the Credit Agreement) dated as of _____, hereby certifies as follows:

1. The Credit Agreement referenced in the mortgage is in full force and effect and has not been amended, modified, terminated or revoked.
2. The undersigned has been duly appointed Agent and is duly serving on the date hereof as the sole Agent under the Credit Agreement, and has not resigned or been removed.
3. Pursuant to the provisions of the Credit Agreement, the Agent has the following powers:
 - a. Hold the mortgage and any other collateral security instruments upon such terms and conditions as the Agent deems acceptable.
 - b. Execute, acknowledge and deliver any and all documents which are necessary or appropriate in connection with the granting, amendment or modification of the mortgage.
 - c. Execute, acknowledge and deliver any partial releases, discharges, assignments, etc., which may be necessary or appropriate with respect to the mortgage.
4. The representations of the Agent contained in this certificate are true as of the date hereof.
5. Any person dealing with the mortgage may rely fully and without further inquiry on a certificate signed by the Agent as to the authority of the Agent to act as Agent for other lenders under the Credit Agreement. This certificate shall further be conclusive evidence of every person relying thereon that at the time of the execution and delivery of the mortgage, the Credit Agreement was in full force and effect.
6. The terms and provisions of the mortgage may be amended by instrument duly executed by the mortgagor and the Agent, which amendment will become effective on the recording or filing of same.

In witness whereof, the undersigned has hereunto signed his name, as such Agent, this ____ day of _____.

_____ Bank, as Agent

By: _____

Name: _____

Title: _____

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

[date]

Then personally appeared the above-named _____, and
acknowledged that _____ is the _____ of the
above-named _____ Bank, as Agent, and that _____ executed the
Certificate on behalf of said bank.

-

_____, Notary Public

My commission expires:

4. Alteration of Documents

A. Certain changes are not “alterations” and are acceptable.

An alteration is a change which on its face appears likely to have been made after the instrument was executed, such as a handwritten change or a whiteout. However, if the document shows that the change was made intentionally by the parties to the instrument, or with their approval, it should not legally be considered as an alteration. Thus changes to an instrument which have the handwritten initials of the parties alongside the change are not considered alterations for the purpose of this guideline and may be accepted for filing without other documentation.

B. Three categories of alterations.

Alterations of instruments can be separated into three categories:

Category 1.

The first category consists of changes and insertions of information which are either obviously required or are of a ministerial or clarifying nature. Examples of this category include, but are not limited to, the following:

- (1) the insertion of the address of the property in the margin of a deed or on a discharge of a mortgage;
- (2) the insertion or correction of an erroneous reference to either the date or the record reference (but not both) to a mortgage in the case of an assignment, partial release, or discharge of such mortgage;
- (3) the insertion of the grantor's Certificate of Title number in a deed;
- (4) the insertion of the Certificate of Title number indicating where a Land Court plan is filed when the plan is already referenced by a Land Court plan number;
- (5) the deletion or addition of a middle or first initial of an individual;
- (6) the addition of another name of a party as a result of change of marital status;
- (7) the correction of a minor variation from the correct name of a corporation, limited partnership, limited liability company or other entity, such as the omission or addition of “The” or the interchange of “Corporation” for “Corp”;
- (8) changing “for no monetary consideration paid” to “for consideration paid of one dollar” or “love and affection” (or words of similar import) in a deed;
- (9) the correction of obvious misspellings or the addition of prefixes or suffixes;
- (10) the insertion of “formerly known as” or “f/k/a” or “also known as” or “a/k/a” or “successor to” followed by a name of a person or entity, when the change is plainly made for the purpose of clarification;

(11) changes in the form of tenancy in the grantee clause of a deed, provided the alteration does not negate the decision regarding survivorship rights reflected by the unaltered deed. This Category 1 includes insertion of a form of tenancy where none is specified, and changing a joint tenancy to tenancy by the entireties, or vice versa, which may be accepted without further inquiry. If the deed indicates a change from a joint tenancy or tenancy by the entireties to a tenancy in common, or vice versa, all grantees must initial the change; if they do not, but instead supply the affidavit called for under Category 2 (signed by all grantees) the change will be treated as a Category 2 alteration; otherwise the change will be treated as a Category 3 alteration;

(12) the insertion of the official, corporate or similar office or title of a signatory;
or

(13) the addition of Book and Page or instrument numbers of recorded or filed instruments otherwise accurately described in the instrument presented for filing.

Alterations of an instrument in this first category may be accepted, without further documentation and without Court approval, unless in the judgment of the registry personnel there is something unusual about the alteration which requires further inquiry in which case the requirements for the second category may be considered. Alterations of a grantee's name, except as described above, do not belong in this category.

Category 2.

The second category consists of alterations which do not belong in the first category or the third category but which do not separately or in the aggregate change the substance of the instrument. Handwritten changes may be considered in this category in the discretion of registry personnel. A change in the grantee clause of deed which changes the form of tenancy from one with a right of survivorship to one without survivorship, or vice versa, falls into this Category 2, requiring an affidavit of all of the grantees, unless all grantees have initialed the change; otherwise the change will be treated as a Category 3 alteration. Other types of alterations in this second category may only be accepted for filing when accompanied by the affidavit of an attorney, or of a grantor in the instrument, stating in substance that the alteration(s) were made to conform to the intention of the parties to the instrument. Suggested forms of affidavit are attached to this guideline. Changes to the names of the grantees in a deed (except as described above as belonging in the first category) belong in the third category.

Category 3.

The third category consists of changes in the name(s) of the grantee(s) in a deed (except as permitted under Category 1) or other alterations which change the substance

of the instrument, such as the addition or deletion of parcels of land. Changes to documents issued by a court, such as an order authorizing the filing of an attachment or a lis pendens, are in this category, unless clearly ministerial. Changes in this third category shall not be accepted for filing without an order of the Court or approval of the Court's Chief Title Examiner or his or her designee.

AFFIDAVIT OF ATTORNEY

The undersigned, an attorney at law, make the following statements of my own personal knowledge:

1. I am the attorney for _____, the grantor(s)/grantee(s)/mortgagee(s) [select one] named in the deed/mortgage [select one] to which this affidavit is attached. I participated in the preparation of said deed/mortgage/participated in the closing of the transaction of which such deed/mortgage is a part/advised the grantor(s)/grantee(s)/mortgagee as to the execution and delivery of such deed/mortgage [select appropriate facts].

2. Subsequent to the preparation of such deed/mortgage, the following changes to the deed/mortgage were made at the time of delivery of the deed/mortgage/in the process of preparing to record the deed/mortgage [select appropriate facts]:

a) _____

b) _____

c) _____

3. All such changes were made with the consent and approval of the grantor(s)/grantee(s)/mortgagee [select appropriate facts] in order to conform the deed/mortgage to their intentions.

Signed under the pains and penalties of perjury this ____ day of _____, 2000.

Print name

BBO # _____

AFFIDAVIT OF GRANTOR

The undersigned make the following statements of my own personal knowledge:

1. I am [one of] the grantor(s)/mortgagor(s) [select one] named in the deed/mortgage [select one] to which this affidavit is attached.

2. Subsequent to the preparation of such deed/mortgage, the following changes to the deed/mortgage were made at the time of delivery of the deed/mortgage/in the process of preparing to record the deed/mortgage [select appropriate facts]:

a) _____

b) _____

c) _____

3. All such changes were made with the consent and approval of the undersigned/all of the grantors /all of the mortgagors [select appropriate facts] in order to conform the deed/mortgage to my/their intentions.

Signed under the pains and penalties of perjury this ____ day of _____, 2000.

Print name

5. Approval by the Engineering Department

When there is a new subdivision of a registered land parcel pending in the Engineering Department of the Land Court and that subdivision plan has not yet been received at the registry district for entry, no instruments may be accepted for registration against that plan until the said instruments have been first stamped for approval by the Land Court. The only exception to this policy is that once the first deed out of any lot on the subdivision has been approved by the Land Court Engineering Department and thereafter registered, no further instruments as to that particular lot need be further approved.

6. Attachments

Upon judgment for the plaintiff in a civil action, existing attachments remain good for thirty (30) days from the date of the execution (MGL c. 223, sec. 59). If property is attached in Nantucket and judgment is secured elsewhere, or if a judgment is rendered in Nantucket and the property is elsewhere, they remain good for sixty (60) days from the date of execution. In order, however, to have the attachment removed from a certificate of title pursuant to this statute, a petition must be made to the Land Court.

Attachments on which there has been no execution may be dropped after six years.

Executions on which there has been no levy may be dropped after six years.

Attachment may be discharged at any time by the plaintiff or by his attorney of record.

Executions may be levied without prior attachments, but the debtor in the execution must be the same as an owner listed on the affected certificate. The relationship between an attachment and an execution is that if the attachment is made and the execution is levied within the year and thirty (30) days, it relates back to the attachment date.

A levy on property of "A" standing in the name of "B" can only be made pursuant to a Court Order which is explicitly spelled out in the execution. A sheriff's levy cannot deviate from the execution.

7. Attorney's Proposed Form of New Certificate

MASSACHUSETTS LAND COURT

PROPOSED FORM OF OWNER'S CERTIFICATE OF TITLE

(Instructions)

This form may be used to suggest to the Land Registration District the form of new owner's certificate of title the District will issue (or of notations to be made to the memoranda of encumbrance for an existing certificate of title) following registration of documents.

Use of the form is optional, but is encouraged if the title involved or the documents presented are complex. Any person interested in the title to land affected by a certificate of title may submit this form directly or through counsel. More than one party may submit this form. Joint submission of the same form is encouraged, but parties may submit differing versions.

This form should be submitted at the time the documents are registered; when this form is submitted later, it is possible that it may not be taken into account before the District completes its work on the certificate. Parties are encouraged to provide copies of this form to other parties involved in the transaction and to retain copies of this form and the relevant documents in the event questions arise while the District is working on the certificate.

This form is intended only to suggest to the District what action it should take in preparing a new certificate of title or notation(s). In doing its work, the District will use its own best judgment, following applicable law and court guidelines, and may accept, reject, or modify the suggestions made in this form. Nothing in this form will in any way alter or affect the registered documents themselves. This form is not intended as a substitute for a supplemental petition to the Land Court to amend or correct a certificate of title. So-called "S-Petitions" will continue to be required in appropriate cases. Use of this form does not relieve proponents of documents of the need to establish authority or to obtain prior Land Court approvals.

[] Land Registration District

1. List all Certificates of Title outstanding at time documents are registered:

<u>Number</u>	<u>Registration Book/Page</u>
---------------	-------------------------------

(Attach Xerox copies)

2. List all new Certificate(s) of Title assigned at time of registration:

<u>Number</u>	<u>Registration Book/Page</u>
---------------	-------------------------------

3. Street Address(es) of Property: _____

- 4. Party or Parties Submitting this Form:**

Name: _____ Counsel's Name: _____

Address: _____ Firm: _____

_____ Address: _____

Phone No.:_____ Phone No.: _____

Fax No.: _____ Fax No.: _____

Grantor _____ Grantee _____ Mortgagor _____ Mortgagee _____ Other _____

Name: _____ Counsel Name: _____

Address: _____ Firm: _____

_____ Address: _____

Phone No.: _____ Phone No.: _____

Fax No.: _____ Fax No.: _____

Grantor _____ Grantee _____ Mortgagor _____ Mortgagee _____ Other _____

5. List all documents being filed for registration (list in order of Document Nos.):

Document No.	Type of Document	Parties (Name and Description)	Date of Document	Date and Time of Registration	Noted on Certificate of Title No.	Affects Parcel(s)

6. Set forth proposed form of New (or Modified) Transfer Certificate(s) of Title (Prepare one for each certificate of title number):

[Note: Modification of an existing Transfer Certificate of Title (or Issuance of a New Transfer Certificate of Title to reflect modification of an existing Transfer Certificate of Title) may be appropriate (a) as a result of the filing of additional documents, or (b) where matters have been terminated or expired by passage of time or operation of law (see Land Court Guideline 21). The reasons for such a request should be stated clearly in this form]

A. **Owner:** Name(s): _____
Description: _____
Address: _____
Comments: _____

B. **Description of Land Subject to Certificate:**

Comments:

C. Suggested form of language, to appear on face of certificate (provide only if new certificate is being issued or if certificate is being amended by order of court):

i. The land is subject to:

if less than all land described in certificate is affected, specify and explain:

Comments:

ii. The land has the benefit of:

if less than all land described in certificate is affected, specify and explain:

Comments:

iii. Other:

Comments:

D. Suggested form of Memoranda of Encumbrances (list in order and with specific language requested). Provide comments (and supply copies of relevant documents with pertinent provisions highlighted) to explain or clarify request).

i. Document No.: _____
Type of Instrument: _____
Running in Favor of: _____
Terms/Description: _____
Date of Document: _____
Date and Time of Registration: _____
Parcel or Parcels Affected (if less than all): _____
Additional Explanatory Notation Requested: _____
Discharge: _____
Comments: _____

ii. Document No.: _____
Type of Instrument: _____
Running in Favor of: _____
Terms/Description: _____
Date of Document: _____
Date and Time of Registration: _____
Parcel or Parcels Affected (if less than all): _____
Additional Explanatory Notation Requested: _____

Discharge: _____
Comments: _____

iii. Document No.: _____
Type of Instrument: _____
Running in Favor of: _____

Terms/Description: _____
Date of Document: _____
Date and Time of Registration: _____
Parcel or Parcels Affected (if less than all): _____
Additional Explanatory Notation Requested: _____

Discharge: _____
Comments: _____

iv. Document No.: _____
Type of Instrument: _____
Running in Favor of: _____
Terms/Description: _____
Date of Document: _____
Date and Time of Registration: _____
Parcel or Parcels Affected (if less than all): _____
Additional Explanatory Notation Requested: _____

Discharge: _____
Comments: _____

v. Document No.: _____
Type of Instrument: _____
Running in Favor of: _____
Terms/Description: _____
Date of Document: _____
Date and Time of Registration: _____
Parcel or Parcels Affected (if less than all): _____
Additional Explanatory Notation Requested: _____

Discharge: _____
Comments: _____

vi. Document No.: _____
Type of Instrument: _____
Running in Favor of: _____
Terms/Description: _____
Date of Document: _____
Date and Time of Registration: _____
Parcel or Parcels Affected (if less than all): _____
Additional Explanatory Notation Requested: _____

Discharge: _____
Comments: _____

E. Other comments and requested action concerning certificate:

Dated: _____

Name:

Title:

Telephone Number:

Signature of party submitting form
(or of counsel)

8. Condominiums: Acts by the Organization of Unit Owners

1. Registry districts may accept for filing documents granting, modifying or amending easements through, over and under the common areas and facilities of the condominium which are executed by the organization of unit owners acting by and through its governing body, provided that the document contains a recital of compliance with the notice and consent provisions of MGL c. 183A, sec. 5(b)(2)(i).

2. Registry districts may accept for filing documents granting to, or designating for, any unit owner the right to use any limited common area and facility of the condominium, whether exclusively or in common with other unit owners, which are executed by the organization of unit owners acting by and through its governing body, provided that the document contains a recital of compliance with the notice and consent provisions of MGL c. 183A, sec. 5(b)(2)(ii).

3. The extension, revival or grant of rights to develop the condominium, including the right to add additional units or land to the condominium, or withdrawal of common areas from the condominium, MGL c. 183A, sec. 5(b)(2)(iii), requires the approval of a Judge of the Land Court.

4. Registry districts may accept for filing documents selling, conveying, leasing or mortgaging any rights or interests to develop the condominium, after approval by the Land Court of the establishment of such rights as set forth in paragraph 3. above, which are executed by the organization of unit owners acting by and through its governing body.

9. Condominiums: First Unit Deeds

A form of Condominium Unit Deed is attached. They are also available at the Land Court in Boston.

If first units out are conveyed using this form, registry personnel may accept them without prior Land Court approval. All other first unit deeds require prior land court approval. In accordance with MGL c. 183A, sec. 9, the first deed of each unit should have a plan attached thereto.

Each plan should have affixed the “as built” certification of a registered architect, registered professional engineer or registered land surveyor certifying that the plan shows the unit designation of the unit being conveyed and of immediately adjoining units, and that it fully and accurately depicts the layout of the unit, its location, dimensions, approximate area, main entrance and immediate common area to which it has access, as built. Please check in the upper right hand corner of the Land Court Unit Deed indicating that a Unit Plan was affixed.

The subsequent sale of units is to be handled in the usual manner. Attorneys may wish to use their own deed or they may use the Land Court Form. Only the first deed out of each unit, however, requires an affixed plan.

In regard to time-sharing Condominiums, the first deed of an interval in a unit must also be approved by the Court. There is no form of interval deed available from the Court.

THE COMMONWEALTH OF MASSACHUSETTS
LAND COURT
DEPARTMENT OF THE TRIAL COURT

CONDOMINIUM UNIT DEED

GRANTOR:

(number and street, town or city) For consideration of

GRANTS TO:

of

Commonwealth of Massachusetts, with quitclaim covenants, Unit No.
of
Condominium created by Master Deed dated and filed on
with Registry District of
County of the Land Court as Document No. noted on
Certificate of Title No.

The Post Office Address of the Condominium is:

The unit conveyed is laid out as shown on a plan filed herewith, which plan is a copy of a portion of the plans filed with said Master Deed and to which is affixed a verified statement in the form provided in G.L. c. 183A, §9. It is subject to and with the benefit of the obligations, restrictions, rights and liabilities contained in G.L. c. 183A, the Master Deed and the By-Laws filed therewith.

The Condominium and each of the units is intended for residential purposes and other uses permitted by the applicable Zoning Ordinances and as set forth in the Master Deed.

The undivided percentage interest of the unit conveyed hereunder in the common areas and facilities is %.

Witness hand and seal this day of ,
2000.

COMMONWEALTH OF MASSACHUSETTS

ss. Date_____

Personally appeared the above-named
and acknowledged the foregoing instrument to be his free act and deed before me.

Notary Public
My Commission expires: _____

10. Condominiums: Foreclosure of Lien for Common Expenses

By statute, a condominium association has a lien for unpaid common expenses. MGL c. 183A, sec. 6. Such lien is prior to all other liens and encumbrances of a unit except

1. Liens and encumbrances recorded before the recording of the Master Deed;
2. A first mortgage on the unit recorded before the date on which the assessment sought be enforced became delinquent, except there is a priority over such a first mortgage to the extent of (a) common expense assessments, based on the duly adopted condominium budget, which would have become due in the absence of acceleration during the six months immediately preceding institution of an action to enforce the lien and also (b) any costs and reasonable attorneys' fees incurred in the action to enforce the lien; and
3. Liens for real estate taxes and other municipal assessments or charges against the unit.

To enforce priority for the common expense lien over a prior recorded first mortgage, as described in 2 above, either a lawsuit brought by the organization of unit owners must be commenced or an agreement in writing must be entered into by the first mortgagee, as provided in the statute, MGL c. 183A sec. 6(c).

The lien is enforced in the manner provided in MGL c. 254, sec. 5 and 5A. Enforcement is by a civil action brought by the organization of unit owners in either the local Superior Court or the local District Court. An attested copy of the complaint containing a sufficient description of the unit and a statement of the amount due must be recorded at the local registry of deeds (MGL c. 254, sec. 5). Failure to do so within thirty days of the commencement of the action results in dissolution of the lien. Id. The Court establishes the amount of the lien and enters an order authorizing the sale of the unit (MGL c. 254, sec. 5A). The lienholder must publish, using the statutory form, once in each of 3 successive weeks, the first publication to appear not less than 21 days before the date of the sale, in a newspaper published in the town where the property lies, or if no newspaper is published in such town, in a newspaper published in the county where the property lies (MGL c. 254, sec. 5A). The person or entity selling, or their attorney, may, although not required by statute, cause a copy of the notice and an

affidavit, stating that the requirements of the Court order and the statute have been complied with, to be recorded at the proper registry. We will require such a filing and notation on the certificate of title.

A sale of the property conveys it subject to, and with the benefit of, all restrictions, easements, improvements, outstanding tax title, municipal or other public taxes, assessments and first mortgages recorded prior to the complaint, except that the sale is free of the first mortgage, if, as of the date of the sale, there are unpaid common expense assessments, costs, or reasonable attorneys fees the lien for which is given priority over the first mortgage under 2, above.

In summation, the following instruments should be registered and noted on the appropriate Memorandum of Unit Ownership:

1. An attested copy of the complaint containing a sufficient description of the unit and a statement of the amount due;
2. An attested copy of the Order of the Court which establishes the amount of the lien, identifies the portion thereof entitled to priority over any first mortgage, and authorizes the sale and sets forth the terms of the sale.
3. A copy of the notice and an affidavit, stating that the requirements of the Court Order and the statute have been complied with; and
4. The Deed given pursuant to the judicially ordered sale, conveying the property in accordance with the statute and the Court Order.

No new certificate of title, however, should be issued based on the above referenced instruments. If an attorney should request a new certificate of title based on the foreclosure, he/she should be advised to file a Supplemental Petition at the Land Court in Boston.

11. Condominiums: Prior Undischarged Mortgages

If registered land is subject to a mortgage at the time a condominium Master Deed is filed, the Master Deed may be accepted for filing without a discharge, subordination agreement, partial release or consent by the mortgagee. In such case the mortgage must be noted on the Master Condominium Certificate of Title and noted (on the encumbrance sheet) on the Memorandum of Unit Ownership resulting from a unit deed.

A "Subordination Agreement" or "Consent to the Condominium Regime" or similar instrument is to be noted on the Master Condominium Certificate of Title and may, but need not be, noted on any Memorandum of Unit Ownership.

If a subordination agreement or consent by the mortgagee is filed without a discharge or partial release of the mortgage, the mortgage must still be noted (on the encumbrance sheet) on the Memorandum of Unit Ownership resulting from a unit deed as set forth in the first paragraph above, until such time as the mortgage is discharged or partially released.

NOTE that this is a change in practice. Until August 1999, the court would approve Master Deeds subject to a prior unsubordinated mortgage, but would not approve unit deeds until the mortgage was discharged or subordinated to the Master Deed. Attorneys are cautioned to review the Master Condominium Certificate of Title as well as the relevant Memorandum of Unit Ownership.

12. Condominiums: Plans and Amendments

The Land Court Engineers no longer prepare condominium plans for filing at the local registry. Instead, the site plan (which has heretofore been filed with the Engineering Department) along with the floor plans and condominium documents will be reviewed by the Land Court Legal Department. The condominium will then be allowed by a Land Court Judge as evidenced by the Judge's signature on the face page of the Master Deed. After the condominium is allowed the condominium documents and plans should be filed at the proper registry.

All amendments to the Master Deed must also be allowed by a Judge. Amendments to the condominium trust do not need Land Court approval.

13. Conservation Commission or DEP Plans

MGL c. 131, sec. 40 provides that a final order, determination or notification of a conservation commission or the department of environmental protection may require the recording of a plan which:

1. shows location of the proposed work;
2. is prepared by a registered professional engineer or land surveyor; and
3. is in recordable form.

The registry district should accept these plans for registration and should treat these plans in the same manner, and subject to the same requirements for registration, as easement plans. The plan should be reduced to the same size as the order, determination or notification.

14. Death: The Effect of Death upon Registered Land Titles

The purpose of this guideline is to assist attorneys in dealing with title to registered land upon the death of a registered owner. Upon such a death, there are three possible avenues of approach.

THE METHODS OUTLINED ARE, GENERALLY SPEAKING, MUTUALLY EXCLUSIVE.

1. BY WAY OF A LICENSE TO SELL.

This method is usually utilized when the death is fairly recent and when a sale of the real estate is contemplated.

The advantage of this method is that the sale is free of debts of the deceased, costs of administration, legacies and Massachusetts estate taxes.

For details, see Method # 3.

2. BY WAY OF A SALE UNDER THE POWER IN A WILL.

This method is utilized when a sale is contemplated.

Under this method, the sale is free of debts of the deceased, costs of administration and legacies.

For details, see Method # 4.

3. BY WAY OF PETITION FOR A NEW CERTIFICATE AFTER DEATH OF A REGISTERED OWNER.

This method is usually utilized when no sale is imminent. The heirs-at-law or the devisees in the will are entitled to a Certificate of Title in their names.

For details, see Method # 1 and Method # 2.

If Land Court form LCP-2 is presented, an Order of Court will issue. If a deed under a license is presented, the deed is approved. No petition is necessary.

This guideline is not intended to be exhaustive and addresses only the most

common situations. With any method, an attested copy of the outstanding Certificate of Title must be presented.

METHOD # 1—DEATH OF ONE TENANT BY THE ENTIRETY OR DEATH OF ANY NUMBER OF JOINT TENANTS BUT THE LAST

Because title to land passes in such situations by operation of law to the surviving co-tenant(s) by right of survivorship, it is unnecessary for the surviving owner(s) to obtain a new certificate of title in order to deal with the property. It is necessary, however, that evidence of the death be noted on the encumbrance sheet of the outstanding Certificate of Title. There should be registered the following:

1. Certified copy of death certificate of deceased owner.
2. If deceased was a tenant by the entirety, an Affidavit of No Divorce. Attached is a form which may be used.

Once the above-mentioned documents are registered, the surviving owner(s) may deal with the property freely without Land Court approval.

However, if the surviving owner(s) requests a certificate of title in his/her name, an "S" petition must be filed at the Land Court Department along with a (\$40.00) filing fee, the material referred to in the previous paragraph and an attested copy of the outstanding Certificate of Title. There is no form for such a petition; the surviving owner must simply recite under oath the circumstances, request the cancellation of the outstanding certificate and the issuance of a new certificate in his/her name.

METHOD # 2—PETITION FOR LAND COURT ORDER

This method is used to obtain a new Certificate of Title after the death of a person in whose name alone a Certificate of Title stands, after the death of both tenants by the entirety, after the death of any tenant in common and after the death of the last joint tenant.

1. Land Court Form LCP-2 must be completed and filed at the Land Court along with a \$40.00 filing fee. Note that the petition has two signature sections. The petitioners (heirs or devisees of the deceased owner) may sign the first section of the petition or their attorney may sign for them. The statement in the last paragraph of the petition *must* be signed by the executor or administrator of the estate and the signature must be notarized.

2. An attested copy of the outstanding Certificate of Title must be filed with the petition.

3. Supporting documentation will vary depending upon how title to the property was held:

(a) *Tenancy by the Entirety/Joint Tenancy—all co-tenants deceased*

- (i) *as to first to die*, file a death certificate. In addition, an Affidavit of No Divorce must be filed where the owners were tenants by the entirety. (Where there were more than *two* joint tenants, these documents must be filed for each joint tenant to die but the last).
- (ii) *as to the surviving tenant by the entirety or last joint tenant to die*, file either an abstract of the probate proceedings prepared by a Land Court Examiner, *or*, attested Probate Court copies of the Probate petition, citation, decree, bond, will (and any codicils thereto), inventory, if any, and docket. Attorneys *may not* attest these documents.

(b) *Tenancy in Common—for each tenant in common who has died*, file all of the material set out in the immediately preceding paragraph 3(a)(ii). If there are surviving tenants in common, each should assent to the petition by signing it to indicate that they are aware that the old certificate is to be canceled and a new one issued in their names and the names of the new tenant(s) in common.

(c) *Certificate Standing in the Name of One Person*—again, file either an abstract of the probate proceedings, prepared by a Land Court Examiner, *or*, attested Probate Court copies of all probate papers in the estate of the deceased and the Probate Court docket.

4. The result of this procedure will be an attested Order of the Land Court which must be registered at the Land Registration Office at the proper Registry of Deeds. In due course, a new Certificate of Title will be drawn in accordance with the Order.

NOTE:

DEBTS As to decedents dying before January 1, 1990 the new Certificate of Title will issue subject to debts in the estate of the deceased owner, *unless* one full year has elapsed from the date upon which the bond in the estate was allowed.

As to decedents dying on or after January 1, 1990 claims of creditors are barred at one year from the date of decedent's death.

TAXES Estate and inheritance taxes are not required to be noted on certificates, MGL c. 185, sec. 46. See also Guideline 35.

LEGACIES Unless there is a specific devise of the real property, if a will directs the payment of legacies, the Land Court requires evidence of their payment unless six years have elapsed from the date of death.

DEVISE TO TRUST If property is devised to the trustees of a testamentary trust, attested copies of the trustees' appointment and bond must be included with the probate papers.

If real property is devised to the trustees of an *inter vivos* trust which is not on record, the original trust instrument and any amendment(s) thereto must be presented at the Land Court.

The Court Order will issue to the trustees, and the trust will be registered and noted on the new certificate issued.

METHOD # 3—SALE UNDER DECREE (LICENSE) OF PROBATE COURT

This method and Method # 4 are alternatives to Method # 2 and are used when an immediate sale is contemplated. One of the advantages of obtaining a Probate Court decree of sale is that the property will be sold free of debts of the deceased, costs of administration, legacies and Massachusetts estate taxes, a tax release being a prerequisite for obtaining the decree from the Probate Court.

1. *The original or an attested copy of the Decree of the Probate Court must be presented at the Land Court together with an attested copy of the Probate Court docket; the*

decree must be no more than one year old.

2. *An attested copy of the outstanding Certificate of Title must be filed.*
3. *A fully executed deed must be presented. The grantor clause should state as follows: "I, _____ Executor/ Administrator of the estate of _____ holder of a Decree of the Probate Court of _____ County dated _____, by power conferred by said Decree". The date must be the date the decree issued. The deed must conform in all respects to the decree, thus, the consideration must be equal to or more than the amount specified in the decree. It should be executed on or after the date of the decree.*

Likewise, the description of the property in the deed must conform to the description in the decree. There are several Probate Courts whose decrees do not describe the property. If the decree is obtained from one of these courts, the petition filed to obtain the decree must be presented at Land Court. In addition, if the fiduciary is the grantee in the deed, the decree of the Probate Court must state that the fiduciary is permitted to take title.

4. If everything is in order, the deed under the decree will be endorsed "Approved for Registration" and signed by Land Court personnel.

METHOD # 4—DEED UNDER POWER OF SALE IN WILL

The advantage of a sale pursuant to a Power of Sale in the will is that the property is sold free of debts of the deceased, costs of administration and legacies.

1. *An attested Probate Court copy of the will must be presented at the Land Court. To use this method, the Power of Sale in the will must be unequivocal. The clause containing the power should be marked.*
2. *Along with the will, file an attested Probate copy of the Executor's appointment, together with an attested copy of the Probate Court docket. The certificate of appointment should be no more than 60 days old.*
3. *An attested copy of the outstanding Certificate of Title must be filed.*

4. *The fully executed deed* of the Executor must be filed. The grantor clause should state clearly that the Executor is selling pursuant to the power conferred by the will of the deceased owner. The consideration in the deed *must* be other than nominal.

AFFIDAVIT OF NO DIVORCE

I, _____, Attorney for _____,
being the surviving owner of the premises described in Land Court Certificate of Title
No. _____, depose and say that his wife/her husband, _____,
died at _____ on _____, and at that time there had
been no divorce.

Attorney for

Subscribed and sworn to before me this _____ day of _____, 1999

Notary Public

15. Deeds: Execution and Acknowledgment of Deed under Power of Attorney

Although, as indicated below, there is some leeway in the way a deed in such an instance can be signed, there is little flexibility as to how the granting clause should be drafted.

When a sealed instrument is executed by an agent or attorney, for the principal, the strict technical rule of the Common Law, which has never been relaxed in England or in this Commonwealth, requires that it be executed in the name of the principal in order to make it his deed" *Abbey v. Chase*, 6 Cush. 54. As stated in Crocker's Notes on Common Forms, Little Brown & Company (Seventh Edition, 1955), § 351, where A.B. is the principal, a deed beginning "I, C.D.," or "I, C.D. as attorney for A.B." is an improper form as to the granting clause, and will be ineffective as the deed of the principal. The deed should be drafted by reciting in the granting clause the principal's name only, as though there was no power of attorney.

As far as the execution of the instrument, the signature should be as noted below. We'll assume that Mary Doe is the principal and that John Doe is her attorney in fact under a power of attorney:

/s/ Mary Doe
by John Doe her Attorney in Fact
under Power of Attorney,
recorded with (Registry of Deeds)
Book---, Page---

In this instance John will actually sign Mary's name. Although the above form is the preferred one, the signature "John Doe for Mary Doe" would seem to be satisfactory. See *Mussey v. Scott*, 7 Cush. 215.

The acknowledgment, like the deed, should be that of the principal (albeit through the act of the agent), as follows:

Then personally appeared the aforementioned John Doe and
acknowledged the foregoing instrument to be the free act and deed
of Mary Doe.

16. Deeds: Nominal Consideration

Deeds and other instruments of conveyance may be accepted for registration when they recite that they are given “for nominal consideration”, “for no consideration”, “for consideration of [any amount of dollars less than \$100]”, “in consideration of love and affection”, “as a gift”, or any other similar words which communicate that the conveyance is made for nominal consideration. Deeds of a Trustee given for nominal consideration must nevertheless comply with Guideline 53: Trusts: Trustee’s Deed for Nominal Consideration.

17. Delayed Filing for Registration

No deed, mortgage or other instrument transferring an interest in real estate may be filed after one year from the date of its execution unless it (a) is accompanied by the affidavit of an attorney or a person having personal knowledge of the facts and stating whether the grantor and the grantee under the deed are still living or (b) has been re-acknowledged by all grantors within one year prior to the date of the delayed filing.

If the grantor has died, the document may not be accepted for filing without an order of the Court. The attorney should be advised to file a Supplemental Petition. An affidavit will be required confirming that the instrument was delivered to the grantee or an agent of the grantee during the grantor's lifetime. Assent of the heirs or notice to the heirs may be required.

If the grantee has died, the instrument will be accepted for registration but no certificate will issue in the name of the deceased; the heirs or devisees may thereafter petition for a new certificate after death, upon completion of applicable probate proceedings, or otherwise in accordance with Guideline 14: Deeds: The Effect of Death upon Registered Land Titles.

18. Descriptions in Deeds and Certificates of Title; Exception Deeds; Conveyances of Portions of Land

A. A description incorporating by reference the lot number on a Land Court Plan, together with a reference to the certificate with which the plan is filed, may substitute for a metes and bounds description when the certificate of title is prepared.

Note to Practitioners

Attorneys for grantees and mortgagees should check prior certificates of title to examine whether the land has adequate access and utility line easements appurtenant thereto.

B. The following procedures apply to any conveyance of a portion of the land held under a certificate of title, and to any conveyance of all or any portion of the remainder parcel resulting from any such conveyance ("remainder parcel"). **The following procedures reflect a change from prior practice. "Notation deeds" or "exception deeds" of registered land will not be accepted.**

1. A deed of registered land will be accepted for filing only if it conveys a lot or lots shown on a Land Court Plan.

Before conveyance of any lot or lots constituting less than all of the land described in a certificate of title, the owner shall file a plan of such lot or lots, which shall accurately depict the boundaries and monuments describing such lot. The deed shall convey the lot by reference to its identification on the plan. A new certificate will issue for the lot conveyed, and the deed will be noted on the certificate of title for the original parcel stating that the certificate of title is canceled as to the lot conveyed.

2. No deed of a remainder parcel will be accepted for registration unless and until a plan of the remainder parcel is filed. Such plan shall include a lot designation for the remaining land. Any deed conveying the remainder parcel should convey the remainder parcel by reference to its identification on such plan.

3. Lots may be conveyed out of a remainder parcel, without a new plan of the full remainder parcel. However, a plan of the lot to be conveyed is required. In such cases, the owner should also file with the engineering department a "reference plan"

showing the lot(s) to be conveyed in relation to (i) all lots previously conveyed from the land originally described under the certificate of title, and (ii) the land remaining after the proposed conveyance. Such "reference plan" may be compiled from the plan(s) of the lot(s) conveyed out from the original tract, together with the plan originally filed with the certificate of title to the original tract. The "reference plan" shall be for information and illustration purposes only to facilitate review of the plan of the lot(s) to be conveyed.

4. Instruments conveying a mortgage interest in land are subject to the same procedures described above. Accordingly, a mortgage will be accepted for filing only if the lot described in the mortgage is shown on a Land Court Plan. If a portion of such land is conveyed after the mortgage is filed, a foreclosure deed of the remainder parcel may be accepted for filing. However, no certificate will issue for the remainder parcel, and no further conveyance of the remainder parcel may occur, until a plan of the remainder parcel is filed.

5. A lease or easement describing a portion of a lot shown on a plan attached thereto as an exhibit should be accepted for filing.

19. Easements, Restrictions, Covenants and Other Rights Granted or Reserved in a Deed

If a deed grants the fee of one lot (Lot "A") to a person and the same deed grants or otherwise creates rights, such as an easement or restriction, for the benefit of the grantee of Lot A over another parcel of registered land (Lot "B") owned by the same grantor, registry personnel should check the outstanding certificate of title to verify that the grantor does in fact own Lot B and the deed creating the rights must be noted on the encumbrance sheet of Lot B. Said deed should be noted on the Memorandum of Encumbrances attached to the certificate of title covering Lot B as a deed of Lot A with restriction or a deed of Lot A with easement (or other appropriate notation).

The same deed should be noted as an appurtenant right on the face of the certificate of title to be made up for Lot A.

If the owner of Lots A and B (both registered) conveys Lot A, retains Lot B and reserves an easement or other rights over the granted land (Lot A) for the benefit of Lot B, such reservation should be noted as an encumbrance on the Memorandum of Encumbrances of the new certificate of title in the name of the grantee of Lot A and should be noted on the Memorandum of Encumbrances attached to the certificate of title for Lot B as a deed of Lot A with easement, covenant or restriction. When making up the next certificate of title for Lot B, registry personnel should include on the face of the new certificate, the appurtenant right (easement, restriction or covenant) created for the benefit of Lot B in the deed of Lot A. However, this appurtenant right should only be included on the face of the certificate of title to issue if all the mortgagees of Lot A subordinated their interests as mortgagee or consented to the easement, covenant or restriction.

If the Owner of Lot A grants to the owner of Lot B (both registered) an easement, covenant or restriction for the benefit of Lot B, such grant should be noted as an encumbrance on the Memorandum of Encumbrances for Lot A and should also be noted on the Memorandum of Encumbrances for Lot B. When the next certificate of title is made up for Lot B, this appurtenant right should be included on the face of the new certificate of title to issue as long as the mortgagees of Lot A subordinated their interests as mortgagee or consented to the easement, covenant or restriction set forth in the grant to Lot B.

A grant of easement, restriction or covenant from the owner of an unregistered parcel to the owner of a registered parcel which easement, restriction or covenant runs over or burdens unregistered land, should be accepted for filing and noted on the Memorandum of Encumbrances as easement, restriction or other identifying notation . Said appurtenant right should not be noted on the face of the next certificate of title to

be issued without the filing of a Supplemental Petition.

A deed which grants a fee to Lot A and an easement over the same locus to Lot C is a nullity as far as the easement is concerned if the owner of Lot C is a stranger to the title (that is, neither grantor nor grantee). The easement must be created by a separate instrument.

Note to practitioners: We encourage attorneys who are preparing deeds that include restrictions, easements, covenants or similar matters to highlight the rights created or reserved in the deed and to entitle the instrument "Deed With Restriction", "Deed With Easement" or other appropriate caption. This will help registry personnel to enter the instrument on the Memorandum of Encumbrances.

See also Guideline No. 7, Attorney's Proposed Form of New Certificate.

20. Executions

Executions may be deposited by a deputy sheriff for eventual levy by sale or set off as follows:

If the land has been attached, execution must be levied on within thirty days after final judgment and a copy of the execution must be deposited with the Registry District within forty days after the judgment. This period of time is 70 days for Nantucket County.

Executions so deposited will expire in six years and ninety days unless brought forward or enforced within six years after the deposit.

The Registry District personnel should make certain that the premises described in the execution are the same premises as are covered by the Certificate of Title. The debtor in the execution must be the holder of the certificate of title. You cannot levy on property of "A" standing in the name of "B" unless the execution issued by the Court which granted the judgment so states.

MGL c. 236, sec. 4 provides that an Officer having an execution where there was no previous attachment may make a taking of the defendant's land by depositing a copy of the execution at the registry district with a memorandum that it has been so taken.

If an attachment is made and the execution is levied within one year and thirty days after the attachment, the execution relates back to the date of the attachment and will apply to any Certificate on which the attachment is noted. A satisfaction of the execution will also serve to discharge the attachment.

A creditor of either husband or wife, whose principal residence is held in a post-1980 tenancy by the entirety (MGL c.209, §1) may attach but may not levy on the execution.

A certificate issued by the clerk of court where the execution issued marked "satisfied in full" is usually obtained to clear the record title of a cloud created by an unexpired execution.

An execution may also be released by an instrument executed by the deputy sheriff making the seizure, or by the execution creditor. The release may not be executed by the creditor's attorney.

21. Expired and Obsolete Encumbrances

Various matters shown on a certificate of title's memorandum of encumbrances may expire or become of no force and effect by passage of time and/or by operation of law.

Examples include:

- attachments and executions which have not timely been carried forward;
- restrictions and conditions which expire by statute and have not been removed of record;
- restrictions which have expired by their terms;
- leases (and notices of lease) the terms of which, taking into account all available extensions, have all passed;
- UCC-1 financing statements which have not been continued within the statutory period;
- municipal betterments and assessments.

In such cases, the District should enter, directly on the memorandum of the relevant encumbrance, an appropriate notation such as "Expired by Statute" or "Expired by its Own Terms" to reflect that the listed encumbrance is no longer in force and effect. The notation should be made in a manner similar to that used to indicate the discharge of a mortgage following filing of an appropriate mortgage discharge.

These notations should be made by the Districts on their own or upon request of an interested party. These notations should be made by the Districts without further approval from the Court if there is no issue about the expiration of the encumbrances. Doubtful questions may of course be referred to the Court's Chief Title Examiner or his or her designee.

22. Faxed Instruments

A faxed instrument produced on plain paper bearing original signature is acceptable for registration provided it is legible in its entirety. A faxed instrument produced on thermal paper, even with an original signature, is **never** acceptable for registration.

A faxed instrument without an original signature is equivalent to a photocopy and therefore unacceptable for registration.

23. Federal Deposit Insurance Corporation

Attached hereto is a list received from the FDIC of the failed banks in the New England area for which the FDIC had acted as Receiver/Liquidating Agent as of August 1, 1999.

The Court will from time to time issue revisions to the list.

In addition, in a number of instances the receivership of the FDIC has been terminated, and in the process the remaining assets of the receivership have been sold to the FDIC in its Corporate capacity. In such cases, FDIC-Corporate has the rights, powers, privileges and authorities of the terminated receivership, pursuant to 12 USC §1823(d)(3), and may sell or otherwise deal with the remaining assets that were included in the terminated receivership.

A list of terminated receiverships follows this Guideline.

When papers executed by the FDIC are presented for record, of course, the authority of the signatory must be verified. If there is a power of attorney recorded in the recorded land section of your registry reference may be made to that book and page.

<u>FIN#</u>	<u>BANK NAME</u>	<u>LOCATION</u>		<u>OFFICE</u>	<u>FAIL DATE</u>
MASSACHUSETTS					
4398	BANK FIVE FOR SAVINGS	ARLINGTON	MA	550 9999	20-Sept-91
4309	BANK OF NEW ENGLAND	BOSTON	MA	550 9999	6-Jan-91
4370	BEACON CO-OPERATIVE BANK	BOSTON	MA	550 9999	21-June-91
4333	BLACKSTONE BANK & TRUST COMPANY	BOSTON	MA	550 9999	15-Mar-91
4347	BOSTON TRADE BANK	BOSTON	MA	550 9999	3-May-91
4308	CAPITOL BANK & TRUST COMPANY	BOSTON	MA	550 9999	28-Dec-90
2234	CHICOPEE BANK & TRUST COMPANY	CHICOPEE	MA	550 9999	9-May-75
7440	COMFED SAVINGS BANK	LOWELL	MA	550 9966	13-Sep-91
4608	COMMERCIAL BANK & TRUST CO.	LOWELL	MA	550 9999	6-May-94
4417	COOLIDGE BANK & TRUST COMPANY	BOSTON	MA	550 9999	25-Oct-91
4332	COOLIDGE CORNER CO-OPERATIVE BANK	BROOKLINE	MA	550 9999	14-Mar-91
4242	ELIOT SAVINGS BANK	BOSTON	MA	550 9999	29-Jun-90
4286	FIRST AMERICAN BANK FOR SAVINGS	BOSTON	MA	550 9999	19-Oct-90
4371	FIRST MUTUAL BANK FOR SAVINGS	BOSTON	MA	550 9999	28-Jun-91
5963	FIRST SERVICE BANK FOR SAVINGS	LEOMINSTER	MA	550 9999	31-Mar-89
4430	GRANITE CO-OPERATIVE BANK	QUINCY	MA	550 9999	12-Dec-91
4545	GUARANTY-FIRST TRUST CO.	WALTHAM	MA	550 9999	13-Nov-92
4553	HERITAGE BANK FOR SAVINGS	HOLYOKE	MA	550 9999	4-Dec-92
7212	HOME FEDERAL	WORCESTER	MA	550 9966	9-Nov-90
4211	HOME NATIONAL BANK OF MILFORD	MILFORD	MA	550 9999	1-Jun-90
7161	HOME OWNERS SAVINGS BANK FSB	BOSTON	MA	550 9966	7-Sep-90
4496	LANDMARK BANK FOR SAVINGS	WHITMAN	MA	550 9999	12-Jun-92
4393	LOWELL INSTITUTION FOR SAVINGS	LOWELL	MA	550 9999	30-Aug-91
4618	LUDLOW SAVINGS BANK	LUDLOW	MA	550 9999	20-Oct-94

<u>FIN#</u>	<u>BANK NAME</u>	<u>LOCATION</u>		<u>OFFICE</u>	<u>FAIL DATE</u>
4490	MALDEN TRUST COMPANY	MALDEN	MA	550 9999	15-May-92
4507	MASSACHUSETTS BANK & TRUST CO.	BROCKTON	MA	550 9999	31-Jul-92
4202	MERCHANTS BANK OF BOSTON, A CO- OPERATIVE	BOSTON	MA	550 9999	18-May-90
4432	MERCHANTS NATIONAL BANK	LEOMINSTER	MA	550 9999	13-Dec-91
4402	MIDCOUNTY BANK AND TRUST COMPANY	NORWOOD	MA	550 9999	27-Sep-91
4245	MILFORD SAVINGS BANK	MILFORD	MA	550 9999	6-Jul-90
2281	MOHAWK BANK & TRUST CO.	GREENFIELD	MA	550 9999	16-Feb-80
4300	NEW ENGLAND ALLBANK FOR SAVINGS	GARDNER	MA	550 9999	12-Dec-90
1247	NEW ENGLAND FSA	WELLESLEY	MA	550 9966	4-Mar-94
4457	NEW HERITAGE BANK	LAWRENCE	MA	550 9999	6-Mar-92
4500	OLYMPIC INTERNAT'L BANK & TRUST CO.	BOSTON	MA	550 9999	26-Jun-92
4515	PLYMOUTH FIVE CENTS SAVINGS BANK	PLYMOUTH	MA	550 9999	18-Sep-92
1250	PLYMOUTH FSA	PLYMOUTH	MA	550 9966	11-Mar-94
7377	SENTRY FEDERAL SAVINGS BANK	HYANNIS	MA	550 9966	26-Jul-91
4478	SHORE BANK AND TRUST COMPANY	LYNN	MA	550 9999	24-Apr-92
4475	SOUTHSTATE BANK FOR SAVINGS	BROCKTON	MA	550 9999	24-Apr-92
6299	SURETY BANK AND TRUST COMPANY	WAKEFIELD	MA	550 9999	19-May-72
4461	THE BANK FOR SAVINGS	MALDEN	MA	550 9999	20-Mar-92
4450	THE CENTRAL SAVINGS BANK	LOWELL	MA	550 9999	14-Feb-92
5795	THE FIRST NATIONAL BANK OF MARLBORO	MARLBORO	MA	550 9999	23-Jan-87
2252	THE NEW BOSTON BANK AND TRUST CO.	BOSTON	MA	550 9999	14-Sep-76
2316	UNITY BANK AND TRUST COMPANY	BOSTON (ROXBURY)	MA	550 9999	15-Sep-82
4362	UNIVERSITY BANK, N.A.	NEWTON	MA	550 9999	31-May-91
4467	VANGUARD SAVINGS BANK	HOLYOKE	MA	550 9999	27-Mar-92

<u>FIN#</u>	<u>BANK NAME</u>	<u>LOCATION</u>		<u>OFFICE</u>	<u>FAIL DATE</u>
4509	WINCHENDON SAVINGS BANK	WINCHENDON	MA	550 9999	13-Aug-92
4365	WOBURN FIVE CENTS SAVINGS BANK	WOBURN	MA	550 9999	7-Jun-91
4492	WORKINGMEN'S CO-OPERATIVE BANK	BOSTON	MA	550 9999	29-May-92
5913	YANKEE BANK FOR FINANCE & SAVINGS F.S.B.	BOSTON	MA	550 9999	15-Oct-87

<u>FIN#</u>	<u>BANK NAME</u>	<u>LOCATION</u>		<u>OFFICE</u>	<u>FAIL DATE</u>
NEW YORK					
6333	AMERICAN BANK & TRUST COMPANY	NEW YORK	NY	550 9999	15-Sep-76
4440	AMERICAN NATIONAL BANK OF NEW YORK	LARCHMONT	NY	550 9999	24-Jan-92
1311	AMERICAN S&L ASSOCIATION	NEW YORK	NY	550 9966	5-May-95
4497	AMERICAN SAVINGS BANK	WHITE PLAINS	NY	550 9999	12-Jun-92
2133	BEACON FEDERAL SAVINGS ASSOCIATION	BALDWIN	NY	550 9966	18-Oct-91
4244	CAPITAL NATIONAL BANK	BRONX	NY	550 9999	6-Jul-90
2172	CENTRAL FEDERAL SAVINGS BANK	MINNEOLA	NY	550 9966	13-Mar-92
5904	CENTRAL NATIONAL BANK OF NEW YORK	NEW YORK CITY	NY	550 9999	10-Sep-87
1283	COLUMBIA BANKING FEDERAL	ROCHESTER	NY	550 9966	3-Jun-94
4423	COMMUNITY NATIONAL BANK & TRUST CO. OF NY	NEW YORK CITY	NY	550 9999	8-Nov-91
4442	CROSSLAND SAVINGS	BROOKLYN	NY	550 9999	24-Jan-92
4451	DOLLAR DRY DOCK	WHITE PLAINS	NY	550 9999	21-Feb-92
2113	EASTERN FS & LA	SAYVILLE	NY	550 9966	27-Sep-91
7421	EDISON FEDERAL SAVINGS & LOAN ASSN.	NEW YORK	NY	550 9966	30-Aug-91
7194	EMPIRE OF AMERICA F.S.B.	BUFFALO	NY	550 9966	28-Sep-90
5980	EMPIRE STATE BANK	NEW YORK	NY	550 9999	28-Jul-89
7361	ENSIGN BANK, FSB	NEW YORK	NY	550 9966	19-Jul-91

<u>FIN#</u>	<u>BANK NAME</u>	<u>LOCATION</u>		<u>OFFICE</u>	<u>FAIL DATE</u>
4138	FIRST CITY NATIONAL BANK & TRUST COMPANY	NEW YORK	NY	550 9999	20-Dec-89
5933	FIRST INTERCOUNTY BAML AND TRUST CO. OF	NEW YORK CITY	NY	550 9999	10-Mar-88
4549	FIRST NEW YORK BANK FOR BUSINESS	NEW YORK	NY	550 9999	13-Nov-92
5308	FRANKLIN NATIONAL BANK	NEW YORK	NY	550 999	8-Oct-74
4292	FREEDOM NATIONAL BANK OF NEW YORK	NEW YORK	NY	550 999	9-Nov-90
5580	GOLDEN PACIFIC NATIONAL BANK	NEW YORK	NY	550 9999	21-Jun-85
4363	GOLDOME	BUFFALO	NY	550 9999	31-May-91
5973	GUARDIAN BANK N.A.	HEMPSTEAD	NY	550 9999	21-Jun-89
4565	JEFFERSON NATIONAL BANK	WATERTOWN	NY	550 9999	26-Feb-93
7398	LARCHMONT FS & LA	LARCHMONT	NY	550 9966	9-Aug-91
4144	MONROE SAVINGS BANK, FSB	ROCHESTER	NY	550 9999	26-Jan-90
7220	NASAU FEDERAL SAVINGS & LOAN ASSN.	BROOKLYN	NY	550 9966	16-Nov-90
5610	PEOPLES NATIONAL BANK OF ROCKLAND COUNTY	RAMAPO(NONSEY)	NY	550 9999	13-Sep-85
4498	RIVERHEAD SAVINGS BANK	WHITE PLAINS	NY	550 9999	12-Jun-92
7130	SALAMANCA FEDERAL SAVINGS ASSOC.	SALAMANCA	NY	550 9966	17-Aug-90
2206	STATE SAVINGS	JACKSON HEIGHTS	NY	550 9966	27-Mar-92
4248	THE PERMANENT SAVINGS BANK	NIAGARA FALLS	NY	550 9999	13-Jul-90
4180	THE SEAMEN'S BANK FOR SAVINGS, FSB	NEW YORK	NY	550 9999	18-Apr-90
4511	THE UNION SAVINGS BANK	PATCHOGUE	NY	550 9999	28-Aug-92
2209	WESTERLEIGH SAVINGS	STATEN ISLAND	NY	550 9966	27-Mar-92
7221	WHITESTONE SAVINGS	WHITESTONE	NY	550 9966	16-Nov-90
2112	YORKVILLE FEDERAL SAVINGS & LOAN ASSN.	BRONX	NY	550 9966	20-Sep-91

<u>FIN#</u>	<u>BANK NAME</u>	<u>LOCATION</u>	<u>OFFICE</u>	<u>FAIL DATE</u>
CONNNECTICUT				
4431	BANK OF EAST HARTFORD	EAST HARTFORD	CT 550 9999	13-Dec-91
4610	BANK OF HARTFORD	HARTFORD	CT 550 9999	10-Jun-24
4489	BROOKFIELD BANK	BROOKFIELD	CT 550 9999	8-May-92
4285	BROOKLYN SAVINGS BANK	DANIELSON	CT 550 9999	19-Oct-90
4551	BURRITT INTERFINANCIAL BANCORPORATION	NEW BRITAIN	CT 550 9999	4-Dec-92
4413	CENTRAL BANK	MERIDEN	CT 550 9999	18-Oct-91
7330	CHARTER SAVINGS & LOAN ASSOCIATION	STAMFORD	CT 550 9966	21-Jun-91
4382	CITYTRUST	BRIDGEPORT	CT 550 9999	9-Aug-91
1281	COASTAL FSB	NEW LONDON	CT 550 9966	20-May-94
4456	COLONY SAVINGS BANK	WALLINGFORD	CT 550 9999	28-Feb-92
6961	COLUMBIA FEDERAL SAVINGS BANK	WESTPORT	CT 550 9966	12-Apr-90
7170	COMMUNITY FEDERAL SAVINGS ASSOC.	BRIDGEPORT	CT 550 9966	14-Sep-90
4312	COMMUNITY NATIONAL BANK	GLASTONBURY	CT 550 9999	11-Jan-91
4310	CONNECTICUT BANK & TRUST CO., N.A.	HARTFORD	CT 550 9999	6-Jan-91
2157	CONNECTICUT SAVINGS & LOAN ASSN.	HARTFORD	CT 550 9966	7-Feb-92
4424	CONNECTICUT SAVINGS BANK	NEW HAVEN	CT 550 9999	13-Nov-91
4414	CONNECTICUT VALLEY BANK	CROMWELL	CT 550 9999	18-Oct-91
2174	DANBURY SAVINGS & LOAN ASSOCIATION	DANBURY	CT 550 9966	13-Mar-92
4386	ENFIELD NATIONAL BANK	ENFIELD	CT 550 9999	16-Aug-91
4474	FAIRFIELD COUNTY TRUST COMPANY	STAMFORD	CT 550 9999	9-Apr-92
4628	FAIRFIELD FIRST BANK & TRUST CO.	SOUTHPORT	CT 550 9999	12-Jul-96
7327	FINANCIAL FEDERAL SAVINGS BANK	HARTFORD	CT 550 9966	19-Jun-91
4521	FIRST CONSTITUTION BANK	NEW HAVEN	CT 550 9999	2-Oct-92
4623	FOUNDERS BANK	NEW HAVEN	CT 550 9999	28-Jul-95

<u>FIN#</u>	<u>BANK NAME</u>	<u>LOCATION</u>		<u>OFFICE</u>	<u>FAIL DATE</u>
4544	GREENWOOD BANK OF BETHEL, INC.	BETHEL	CT	550 9999	6-Nov-92
4403	HARBOR NATIONAL BANK OF CONNECTICUT	BRANFORD	CT	550 9999	3-Oct-91
4383	MECHANICS & FARMER SAVINGS BANK, FSB	BRIDGEPORT	CT	550 9999	9-Aug-91
4612	MERIDEN TRUST & SAFE DEP. CO.	MERIDEN	CT	550 9999	7-Jul-94
4117	NATIONAL INDUSTRIAL BANK	MERIDEN	CT	550 9999	10-Nov-89
4580	NEW ENGLAND SAVINGS BANK	NEW LONDON	CT	550 9999	21-May-93
4477	NORWALK BANK	NORWALK	CT	550 9999	24-Apr-92
4429	SAYBROOK BANK AND TRUST CO.	OLD SAYBROOK	CT	550 9999	6-Dec-91
2192	SECURITY SAVINGS & LOAN ASSOCIATION	WATERBURY	CT	550 9966	20-Mar-92
4444	SENTINEL BANK	HARTFORD	CT	550 9999	31-Jan-92
4395	SUFFIELD BANK	SUFFIELD	CT	550 9999	6-Sep-91
4471	SUMMIT NATIONAL BANK	TORRINGTON	CT	550 9999	3-Apr-92
4434	THE BANK MART	BRIDGEPORT	CT	550 9999	13-Dec-91
4381	THE HOUSATONIC BANK & TRUST COMPANY	ANSONIA	CT	550 9999	26-Jul-91
4336	THE LANDMARK BANK	HARTFORD	CT	550 9999	28-Mar-91
4319	THE MERCHANTS BANK & TRUST COMPANY	NORWALK	CT	550 9999	1-Feb-91
2258	THE MONROE BANK AND TRUST COMPANY	MONROE	CT	550 9999	28-Mar-77
4504	VERNON BANK	VERNON	CT	550 9999	26-Jun-92
4342	WHITNEY BANK & TRUST	HAMDEN	CT	550 9999	12-Apr-91
MAINE					
7426	AMERICAN FEDERAL SAVINGS BANK	SANFORD	ME	550 9966	13-Sep-91
1253	FIRST FSA	LEWISTON	ME	550 9966	18-Mar-94
4311	MAINE NATIONAL BANK	PORTLAND	ME	550 9999	6-Jan-91

<u>FIN#</u>	<u>BANK NAME</u>	<u>LOCATION</u>		<u>OFFICE</u>	<u>FAIL DATE</u>
4320	MAINE SAVINGS BANK	PORTLAND	ME	550 9999	1-Feb-9
NEW HAMPSHIRE					
4411	AMOSKEAG BANK	MANCHESTER	NH	550 9999	10-Oct-91
4443	ATLANTIC TRUST COMPANY	NEWINGTON	NH	550 9999	30-Jan-92
4406	BANK MERIDIAN, N.A.	HAMPTON	NH	550 9999	10-Oct-91
4409	BANKEAST	MANCHESTER	NH	550 9999	10-Oct-91
4337	CITY BANK & TRUST	CLAREMONT	NH	550 9999	29-Mar-91
4410	DARTMOUTH BANK	MANCHESTER	NH	550 9999	10-Oct-91
4427	DURHAM TRUST COMPANY	DURHAM	NH	550 9999	15-Nov-91
7385	FIRST NORTHERN COOP	KEENE	NH	550 9966	2-Aug-91
4392	HILLSBOROUGH BANK & TRUST COMPANY	MILFORD	NH	550 9999	30-Aug-91
1295	HomeBank FSA	GILFORD	NH	550 9966	22-Jul-94
4405	IONA SAVINGS BANK	TILTON	NH	550 9999	11-Oct-91
4407	NASHUA TRUST COMPANY	NASHUA	NH	550 9999	10-Oct-91
4412	NEW HAMPSHIRE SAVINGS BANK	CONCORD	NH	550 9999	10-Oct-91
4408	NUMERICA SAVINGS BANK FSB	MANCHESTER	NH	550 9999	10-Oct-91
4512	SEACOAST SAVINGS BANK	DOVER	NH	550 9999	28-Aug-92
4396	THE FAMILY BANK	ALLENSTOWN	NH	550 9999	6-Sep-91
4503	THE SOMERSWORTH BANK	SOMERSWORTH	NH	550 9999	26-Jun-92
4253	U.S. SAVINGS BANK OF AMERICA	SEABROOK	NH	550 9999	27-Jul-90
RHODE ISLAND					
4510	ATTLEBORO PAWTUCKET SAVINGS BANK	PAWTUCKET	RI	550 9999	20-Aug-92
2173	COLONIAL FSB	CRANSTON	RI	550 9966	13-Mar-92
4557	EASTLAND BANK	WOONSOCKET	RI	550 9999	11-Dec-92

<u>FIN#</u>	<u>BANK NAME</u>	<u>LOCATION</u>		<u>OFFICE</u>	<u>FAIL DATE</u>
4558	EASTLAND SAVINGS BANK	WOONSOCKET	RI	550 9999	11-Dec-92
1290	OLD STONE SB	PROVIDENCE	RI	550 9966	8-Jul-94
VERMONT					
4562	FIRST NATIONAL BANK OF VERMONT	BRADFORD	VT	550 9999	29-Jan-93
4397	VALLEY BANK	WHITE RIVER JUNCTION	VT	550 9999	13-Sep-91

TERMINATED RECEIVERSHIPS

(Assets Purchased by FDIC-Corporate)

<u>Name of Financial Institution</u>	<u>Location</u>	<u>Corporate Purchase Date</u>
Attleboro Pawtucket Savings Bank	Pawtucket, Rhode Island	August 27, 1999
Bank Five for Savings	Arlington, Massachusetts	September 10, 1999
Bank for Savings (The)	Malden, Massachusetts	February 25, 2000
Beacon Cooperative Bank	Boston, Massachusetts	November 11, 1995
Blackstone Bank & Trust Company	Boston, Massachusetts	March 13, 1996
Boston Trade Bank	Boston, Massachusetts	May 11, 1999
Commercial Bank & Trust Company	Lowell, Massachusetts	June 1, 1998
Coolidge Bank & Trust Company	Boston, Massachusetts	March 8, 2000
Coolidge Corner Cooperative Bank	Brookline, Massachusetts	July 21, 1999
Eliot Savings Bank	Boston, Massachusetts	May 11, 1999
First Nat'l Bank of Marlborough	Marlborough, Massachusetts	November 11, 1993
First Service Bank for Savings	Leominster, Massachusetts	July 20, 1999
Granite Cooperative Bank	Brookline, Massachusetts	September 29, 1999
Landmark Bank for Savings	Whitman, Massachusetts	September 14, 1999
Ludlow Savings Bank	Ludlow, Massachusetts	December 13, 1999
Malden Trust Company	Malden, Massachusetts	June 17, 1999
Massachusetts Bank & Trust Company	Brockton, Massachusetts	November 19, 1998
Merchants Bank of Boston	Boston, Massachusetts	May 11, 1999
Merchants National Bank	Leominster, Massachusetts	August 12, 1999
Midcounty Bank & Trust Company	Norwood, Massachusetts	November 1, 1995
Milford Savings Bank	Milford, Massachusetts	December 14, 1999
New England Allbank for Savings	Gardner, Massachusetts	May 17, 1999
New England Federal Savings Association	Wellesley, Massachusetts	September 16, 1999
New Heritage Bank	Lowell, Massachusetts	December 22, 1999
Olympic International Bank & Trust Company	Boston, Massachusetts	June 21, 1999
Plymouth Federal Savings Association	Plymouth, Massachusetts	July 7, 1999
Plymouth Five Cents Savings Bank	Plymouth, Massachusetts	April 17, 1996
Sentry Savings Bank, F.S.B.	Hyannis, Massachusetts	November 24, 1999
University Bank, N.A.	Newton, Massachusetts	August 12, 1999
Winchendon Savings Bank	Winchendon, Massachusetts	November 19, 1998
Workingmen's Cooperative Bank	Boston, Massachusetts	June 15, 1999

24. Fees In Streets

No new certificate of title may issue for the fee in a street unless a plan has been filed showing the street as a lot.

25. Homestead

1. Estates of homestead may be acquired pursuant to MGL c. 188, sec. 1, and, by persons 62 years of age or older, or by disabled persons, pursuant to MGL c. 188, sec. 1A. A claim of homestead must be in the deed or a later instrument in writing, signed, sealed and acknowledged. It should contain a statement that the person claiming the homestead occupies or intends to occupy such property as his or her principal residence.
2. An estate of homestead acquired under section 1 of the statute may be established only in one name, although title to the premises may be in several names. Only one tenant by the entirety, one joint tenant, or one tenant in common may claim a section 1 homestead for the benefit of his or her family. The section 1A homestead estate is available to each individual who has an ownership interest in the property and qualifies by reason of age or disability.
3. A trustee may not file a homestead.
4. The amount of an estate of homestead acquired under section 1 has been increased by the legislature in a series of increments to the present level of \$100,000.00.
5. A section 1 homestead estate is acquired for the benefit of the declarant's family. The word "family" is defined as a parent and child or children, a husband and wife and their children, if any, or a sole owner.
6. Under section 1A, the principal residence whether real property or a manufactured home of a person 62 years of age or older, regardless of marital status or a disabled person, is protected to the extent of \$200,000.00 per qualified person who declares the homestead.
7. A disabled person is an individual who has any medically determinable permanent physical or mental impairment, which would meet the disability requirements for supplemental social security income under the U.S. code. Such persons must file with any claim of homestead:
 - (a) An original or certified copy of a disability award letter issued by the United States Social Security Administration; or
 - (b) A letter signed by a physician licensed in Massachusetts certifying that the claimant meets the disability requirements of the United States Code.

8. As the Social Security Administration will not issue certified copies of the award letter, claimants are limited to a physician's letter or the original award. Claimants should be advised that original documents are not returned from the Registry District.

9. There are several obligations of the owner which are exempt from the protection afforded by the Homestead Act, see sections 1 and 1A..

10. Termination

a. Both the regular and the elderly or disabled homestead can be terminated by

- a conveyance of the property subject to homestead signed by the owner and the owner's spouse without a specific reservation of homestead;
- a signed, sealed and acknowledged release by the owner and the owner's spouse filed in the appropriate Registry District;
- the acquisition of a new estate or claim of homestead; and
- the abandonment of a residence.

The elderly or disabled homestead is also terminated by:

- a sale or transfer of real property or manufactured home, or the declarant's interest therein, during the declarant's lifetime;
- the death of the surviving declarant;
- a deed conveying the homestead property signed by the declarant;
- a signed, sealed and acknowledged release of a homestead in real property by the declarant filed in the appropriate Registry District; and
- a signed, sealed and acknowledged release of the claim of homestead in a manufactured home filed with the appropriate city or town clerk's office.

b. Execution of a mortgage with mortgage covenants subordinates any

homestead interest to the mortgage lien. Atlantic Savings Bank v. Metropolitan Bank and Trust Company - 9 Mass. App. Ct. 286 provided both spouses are mortgagors or otherwise joined in the mortgage.

- c. Homestead is a matter of fact and proof claimant has claimed homestead elsewhere, has abandoned the residence, or has never used the property as a principal place of residence will be sufficient cause to strike from the encumbrance sheet. This can be accomplished by a Supplemental Petition.

11. Problem Period - Where Minor Children Are Involved - December 5, 1977 Though August 30, 1979

Homesteads created between December 5, 1977 and October 18, 1978, can be released only by the guardian of the property of minor unmarried children of the homesteader by the license of the probate court, unless the instruments creating the homestead specifically reserved the right to release the interests to the children. Between October 18, 1978 and August 30, 1979, parents could release the right for their children, but they had to indicate clearly that they were doing so. After August 30, 1979, a homestead can be terminated by simply executing a deed of the premises.

26. Land Court Examiner Qualifications

All candidates for appointment as a Land Court examiner should meet the following minimum qualifications:

1. Must be a member of the Massachusetts Bar:
 - a. Must be admitted for three years; or
 - b. Demonstrate sufficient equivalent experience in title matters (i.e. experience as a title examiner prior to admission to the bar).
2. Should submit to the Court a letter requesting appointment. This should enclose with the request two letters of recommendation from members of the bar who are familiar with the candidate's work and experience.
3. Submit an abstract of title with narrative report on any property which has been researched and written by the candidate.

27. Leases and Notices of Lease

A lease should be accepted for registration if the lease is signed by both the lessor and the lessee and is acknowledged by the lessor or one of several parties constituting the lessor. A notice of lease should be accepted for registration if it complies with the requirements of MGL c. 183, sec. 4; namely, an instrument in writing executed by all persons who are parties to the lease of which notice is given and acknowledged by the lessor or one of several parties constituting the lessor containing

the date of execution thereof,
a description, in the form contained in such lease, of the premises demised,
the term of the lease,
with the date of commencement of such term
and all rights of extension or renewal.

A lease or notice of lease meeting these requirements shall be accepted for registration whether the original term of the lease is more or less than seven (7) years.

A lease or notice of lease of less than all of the land described in the certificate of title may describe the leased premises in words or by reference to an attached plan or drawing which need not be approved by the Land Court Engineering Department.

Where the commencement date of a lease term is uncertain from the face of the document, a subsequent estoppel certificate or agreement stating the commencement date, properly acknowledged, may be registered to establish the commencement date.

If the term of a lease (including all extensions) has expired on its face, the registry should enter, adjacent to the document number of the lease or notice of lease on the Memorandum of Encumbrances of the relevant certificate, an appropriate notation such as "Expired by its Own Terms," without need for the filing of a Supplemental Petition.

28. Life Estate Deeds

An example of a life estate deed is where one or more grantors convey real estate to one or more grantees (the "remaindermen") reserving (a) the right to use and occupy the real estate and (b) sometimes other rights such as the right to sell or mortgage, during the lives of the grantors (the "life tenants").

The certificate of title should issue in the names of the grantees/remaindermen in whatever relationship is stated in the life estate deed, e.g., joint tenants or tenants-in-common, immediately followed by a recitation of the rights reserved by the grantors/life tenants exactly as it appears in the life estate deed, e.g., subject to the rights of _____ and _____ to use and occupy the premises for and during their lives as reserved in Document No. _____.

If the grantors/life tenants reserve additional powers with or without notice to the grantees/remaindermen, these should be recited in the certificate of title, e.g., "Subject to the rights, powers and interests reserved to _____ and _____ in Document No. _____, any of which may be exercised without notice to, or assent from, the above named owners or their assigns."

If the grantors/life tenants holding the retained rights exercise them, no notice to or assent from the grantees/remaindermen or their assigns need be given or obtained unless, of course, called for by the deed reserving such rights.

A typical "no notice" provision in a deed would be "No notice to, or assent by, the grantees herein or their assigns shall be necessary in connection with any exercise of the rights retained by the grantors herein."

29. Limited Liability Companies and Partnerships: Formation, Consolidation & Merger

Chapter 281 of the Acts of 1995 went into effect on January 1, 1996, and authorized the creation of limited liability partnerships (MGL c. 108A, sec. 45) and limited liability companies (MGL c. 156C).

A. CONVERSION OF AN EXISTING PARTNERSHIP TO A LIMITED LIABILITY PARTNERSHIP.

If there is a certificate of title in the name of a general partnership, the filing of a certified copy from the Secretary of State of the certificate of registration pursuant to MGL c. 108A sec. 45 registering the partnership as a Limited Liability Partnership, together with a certificate executed by a person authorized to execute and deliver recordable instruments pursuant to the certificate of registration and specifying that the partnership is converting to a limited liability partnership, shall be sufficient to cause the issuance of a new certificate of title in the name of the Limited Liability Partnership.

B. INABILITY TO CONVERT TO A LIMITED LIABILITY COMPANY.

There is no correlative statutory authorization to convert an existing entity to a Limited Liability Company under MGL c. 156C, as each Limited Liability Company is a new legal entity. However, nothing in this Guideline shall prevent a Limited Liability Company from participating in a merger, consolidation or reorganization pursuant to MGL 156C, secs. 61 or 64.

C. MERGER, CONSOLIDATION AND REORGANIZATION OF LIMITED LIABILITY COMPANIES.

If there is a certificate of title in the name of a Limited Liability Company, the filing of a certified copy from the Secretary of State of the certificate of consolidation or merger pursuant to MGL c. 156C, sec. 61 shall be sufficient to cause the issuance of a new certificate of title in the name of the surviving or resulting Limited Liability Company or other entity. The certified copy must be examined to see if it provides for an effective date later than the date the certificate of consolidation or merger was filed with the Secretary of State; if there is such a later effective date, issuance of the new certificate shall not occur until that date. If issuance of a new certificate of title is requested as a result of a reorganization under MGL c. 156C, sec. 64, the matter shall be referred to the Court.

D. FORMATION OF A LIMITED LIABILITY COMPANY.

In order to form a limited liability company one or more authorized persons must execute a Certificate of Organization, which shall be filed in the Office of the Secretary of State. This certificate shall set forth (1) the name of the limited liability company; (2) the address of the office in the Commonwealth; (3) the name and address of the resident agent for service of process; (4) if the limited liability company is to have a specific date of dissolution, the latest date on which the limited liability company is to dissolve; (5) if the limited liability company has managers at the time of its formation, the name and address of each manager; (6) the name of any other person in addition to any manager who is authorized to execute any documents to be filed with the Office of the State Secretary and at least one such person shall be named if there are no managers; (7) the general character of the limited liability company's business; (8) if desired, the names of one or more persons authorized to execute, acknowledge, deliver and record any recordable instrument purporting to affect an interest in real property, whether to be recorded with a registry of deeds or a district office of the land court.

E. FOREIGN LIMITED LIABILITY COMPANIES.

Every foreign limited liability company doing business in the Commonwealth shall submit to the Secretary of State, within ten days after it commences doing business in the Commonwealth, an application for registration as a foreign limited liability company, which shall be signed and sworn to by an authorized person. This application for registration sets forth essentially the same information required for a domestic limited liability company.

See Guideline 30 regarding transfers by limited liability companies and Guideline 31 regarding transfers by limited liability partnerships.

30. Limited Liability Company Documents

Instruments to be filed on behalf of a limited liability company may be accepted by the local registries without prior approval of the Court in accordance with this Guideline.

A deed, mortgage, or other instrument of transfer transferring an interest in real estate from a limited liability company created under MGL c. 156C ("LLC") must be

(1) accompanied by

- (a) (i) the certificate of organization of a domestic LLC or the application for registration of a foreign LLC
and
(ii) a certificate of the Secretary of State's office, dated within 60 days of the date presented for filing, that there have been no amendments or a certificate that there have been amendments and accompanied by copies of the amendments to date
or
- (b) a good standing certificate under MGL c. 156C, sec. 68 dated within 60 days of the date presented for filing
or
- (c) a certification under MGL c. 156C, sec. 67 by someone whose authority is established under (a) or (b) above, of the authority of some other person to act,
and

(2) executed by

- (a) any Manager or person authorized to execute, acknowledge, deliver and record instruments affecting interests in real property as appearing on the certificate of organization of a domestic LLC or on the application for registration of a foreign LLC (hereinafter "an authorized person")
or
- (b) any Manager or authorized person appearing on a good standing certificate under MGL c. 156C, sec. 68
or
- (c) a person named on the certificate of any Manager or an authorized person as being authorized to execute real estate instruments.

31. Limited Liability Partnership Documents

Registered limited liability partnerships were created pursuant to MGL c. 108A, sec. 45.

Pursuant to MGL c. 108A, sec. 46, the name of every registered limited liability partnership must end with the words "registered limited liability partnership", "limited liability partnership" or the abbreviation "L.L.P." or "LLP". Therefore, any naming of the partnership within the document should include one of these references.

Instruments to be filed on behalf of a limited liability partnership may be accepted by the local registries without prior approval of the Court in accordance with this Guideline.

A deed, mortgage, or other instrument of transfer transferring an interest in real estate from a limited liability partnership created under MGL c. 108A ("LLP") must be

(1) accompanied by

(a) (i) the registration statement of the LLP

and

(ii) a certificate of the Secretary of State's office, dated within 60 days of the date presented for filing, that there have been no amendments or a certificate that there have been amendments and accompanied by copies of the amendments to date

or

(b) a good standing certificate under MGL c. 108A, sec. 49 dated within 60 days of the date presented for filing

and

(2) executed by

(a) any partner authorized to execute, acknowledge, deliver and record instruments affecting interests in real property as appearing on the registration statement of the LLP (hereinafter "an authorized partner")

or

(b) any authorized partner appearing on a good standing certificate under MGL c. 108A, sec. 49.

32. Limited Partnership: Consolidation or Merger

MGL c. 109, sec. 16A provides that a domestic limited partnership may merge or consolidate with or into one or more domestic partnerships or other business entities.

A certificate of consolidation or merger must be filed with the Secretary of State by the resulting or surviving limited partnership or business entity. The consolidation or merger shall be effective upon the date of filing of the certificate of consolidation or merger with the Secretary of State unless otherwise provided in the certificate.

The certificate of consolidation or merger acts as a certificate of cancellation for a domestic limited partnership and as a certificate of withdrawal for a foreign limited partnership which are not the resulting or surviving entity in the consolidation or merger.

The certificate of consolidation or merger attested by the Secretary of State or otherwise showing his acceptance should be presented as would the certificate of formation of limited partnership when registering any documents involving a merged or consolidated limited partnership.

Notice to Practitioners

Unless otherwise provided in the partnership agreement the consolidation or merger must be approved by each domestic limited partnership which is to consolidate or merge, by all general partners and by the limited partners or if there is more than one class or group of limited partners, then by each class or group of limited partners, in either case, by partners who own more than fifty percent of the then current percentage or other interest in the profits of the domestic limited partnership owned by all of the limited partners or by the limited partners in each class or group, as appropriate.

33. Limited Partnership: Filing Requirements

No Land Court approval to accept documents for registration is required if the following are presented:

1. Executed documents to be filed;
2. "Long Form" certificate of formation of limited partnership, not over 60 days old and bearing the Seal of The Commonwealth, from the Secretary of State attesting the name(s) of the general partner(s) and certifying that the limited partnership has not filed a Certificate of Cancellation (or if the limited partnership is a foreign limited partnership, that its application for registration has not been canceled and that it has not filed a Certificate of Withdrawal).

As to a foreign limited partnership organized in any of the other 49 states, if it is not registered with our Secretary of State you may accept an original certificate (not over 60 days old) of legal existence from the Secretary of State of the jurisdiction in which the foreign limited partnership is organized, stating the name of the foreign limited partnership, the names of its general partners and the fact that the foreign limited partnership has not filed a Certificate of Cancellation.

Any filings not meeting the above requirements (and a filing by a limited partnership of another country) must be approved by the Land Court.

NOTE: If any partner signing the document(s) is a corporation, the usual requirements for corporate execution of documents apply to the corporation's execution of the document(s), except that there need not be any concern as whether the conveyance constitutes all or substantially all the assets of the corporation (since the assets being conveyed are those of the limited partnership, not those of the corporate partner).

If any partner signing the document is another limited partnership, the above must be satisfied as to that limited partnership as well.

Unless there is something contrary in the Secretary of State's certificate, sec. 9 and 10 of MGL c. 108A (made applicable to limited partnerships by sec. 24 of MGL c. 109), allow registration of an instrument executed in the name of a limited partnership by any one general partner.

The "Long Form" certificate should not be given a separate document number. It

should be attached to (one of) the instrument(s) being registered. It can serve as the basis of subsequent registrations, provided they occur within 60 days of the date of the certificate.

34. Lis Pendens: Notice

A “notice of lis pendens” is a memorandum which is filed at a Registry District to alert persons examining the title to a specific piece of land that the land or the building thereon is the subject of pending litigation in some court, MGL c. 185, Section 86. The statute refers to the filing of a memorandum “like that described in” MGL c. 184, Section 15 and also requires that the memorandum contain a reference to the certificate of title number and the book and page where the certificate of title is filed and registered. MGL c. 184, Section 15 in turn sets forth certain requirements as to what information must be contained in the memorandum - the names of the parties to the proceeding, the name of the court, the date of the writ or other commencement of the proceeding, the town where the property is located and a description of the property adequate for identification. A notice of lis pendens may be accepted for registration only if it contains the required information and bears a finding by a justice of the court in which the action is pending that the subject matter constitutes a claim of a right to title to real property or the use and occupation thereof or the buildings thereon. The notice must also be accompanied by an affidavit that notice of the allowance of the motion has been given by certified mail to all other parties to the litigation prior to the registration of the notice.

35. Massachusetts Estate, Inheritance and Corporate Excise Taxes

Registry personnel are not required to inquire as to releases of Massachusetts estate, inheritance and corporate excise tax liens or the possible existence of such liens. Such liens are not to be noted on certificates of title. Likewise, attorneys should not assume that such taxes have been paid simply because there is no notation as to tax liens on the certificate of title. See MGL c. 185, sec. 46, which excepts such liens from the coverage of a certificate of title. "Seventh, liens existing in favor of the commonwealth for unpaid taxes arising or existing under the laws of the commonwealth." Nevertheless, releases or waivers of tax liens should be accepted for filing.

*Comments
For
General Information Only*

The Massachusetts estate tax is a lien for ten (10) years after the date of death for people who died after January 1, 1976.

There is no Massachusetts inheritance tax lien on estates of persons dying before January 1, 1976, except in the case of a future interest where there is a lien for ten (10) years following the date on which the right to possession or enjoyment accrues.

After September 9, 1998 no release of Massachusetts estate tax lien is required where the date of death is on or after January 1, 1997 and no federal estate tax is due, if the executor provides an affidavit that the decedent's gross estate does not require the filing of a federal estate tax return. Chapter 147 of the Acts of 1998 amending MGL c. 65C, sec. 14(a). Otherwise, a Form M-792 should be obtained.

The corporate excise tax lien lasts for three years after a sale of all or substantially all of the assets of a corporation. MGL c. 62C, sec. 51.

36. Mechanics Liens

The Legislature enacted major revisions to Massachusetts General laws, Chapter 254, the Mechanics Lien Law, effective February 7, 1997 (Chapter 364, Acts of 1996).

The revision made substantial changes to the procedures for creating and enforcing liens. It also expanded the time frame for filing.

I. PERSONAL LABOR (Section One Lien)

Under prior law, a person performing “personal labor” in the erection, alteration, repair or removal of a building or structure on land or improvement or alteration to real property, had a lien on the land for not more than eighteen days of work actually performed during the forty days next prior to filing of a statement of account under Section 8, MGL c. 254, sec. 1. This lien does not apply to labor performed pursuant to a written contract. The lien rights governing that type of work are covered by the provisions of Sections 2 and 4. Chapter 364 expanded the time frame for the personal labor lien to thirty days of work. Thus, under the revised law, a person performing personal labor has a lien for thirty days of labor performed during the ninety day period next prior to the filing of a statement of account under Section 8.

II. GENERAL CONTRACTORS (Section Two Liens)

A person who performs work or provides materials for the construction or alteration of improvements on land pursuant to a written contract with the owner of the land (as a general rule, such a person would be considered to be a general contractor), has a lien on the land upon the recording of a notice of contract at the appropriate Registry of Deeds, MGL c. 254, sec. 2. Under the prior law, the person claiming a lien under Section 2 was required to record the notice of contract prior to the contractually agreed upon completion date. If the notice of contract was recorded after the completion date, there was no lien. **Blount Bros. Corp. v. Lafayette Place Associates**, 399 Mass. 632, 506 N.E.2d 499 (1987).

Under the revised law, a general contractor may file or record a notice of contract at any time after the execution of a written contract whether or not the date for performance of the contract had passed and whether or not the work under such contract had been performed. The law now provides that the notice of contract must be filed or recorded not later than the earliest of:

1. Sixty days after filing or recording of a notice of completion;
2. Ninety days after filing or recording of a notice of termination; or
3. Ninety days after such person last performed or furnished labor and/or materials.

MGL c. 254, sec. 2. Upon the recording or filing of the notice of contract, the lien attaches. If a notice of contract is presented for registration, you should not reject it as an untimely filing unless it is obvious on the face of the notice that it is untimely.

Sections 2A and 2B of the revised lien law introduce two new forms: notice of substantial completion and notice of termination. Section 4 adds yet a third new form: notice of identification, which however, is not recorded or registered.

Under Section 2A of the revised lien law, “upon or after notice of substantial completion of any contract subject to the provisions of section 2 of this chapter (contracts between a contractor and the owner of land), the owner and contractor shall execute and file or record in the appropriate registry of deeds a notice of substantial completion”.

Notice of Termination:

Under Section 2B of the revised lien law, if a general contract has been terminated by one or both of the parties, the owner shall execute and file or record a notice of termination in the appropriate registry of deeds. In such a case, the revised lien law provides a ninety day period in which subcontractors of that general contractor or lower tier subcontractors must file a notice of contract in order to preserve their rights.

III. SUBCONTRACTOR (Section Four Liens)

Under the revised lien law, a subcontractor may record the notice of contract at any time after execution of the written contract whether or not the date for performance stated in such written contract has passed and whether or not the work under such contract has been performed. The lien rights of subcontractors will no longer be tied into the contractually agreed upon completion date. However, the notice of contract by a subcontractor must be recorded no later than the earliest of:

1. Sixty days after the filing or recording of the notice of substantial completion;
2. Ninety days after filing or recording of a notice of termination; or

3. Ninety days after the last day a general contractor or anyone claiming by, through or under him performed or furnished labor or materials.

Again, if a notice of contract is presented for registration, you should not reject it as an untimely filing unless it is obvious on the face of the notice that it is untimely.

The new form of notice of contract will look substantially different from the old form. The new notice of contract will contain information concerning the contract price, agreed change orders, pending change orders, disputed claims and payments received. However, the lien created by recording this notice of contract secures the payment of all labor and material “regardless of the amount stated in the notice of contract”.

The most important changes as far as registry personnel are concerned are:

1. You no longer will have the termination date in the notice of contract; and
2. You have two additional new papers that will be filed:

Notice of Substantial Completion
Notice of Termination

3. Once the Notice of Substantial Completion is recorded the time periods begin to run. All notices of contract (whether they be by the general contractor, subcontractor or sub-subcontractors) must be recorded within sixty days after the recording of the Notice of Substantial Completion (although they can be recorded prior to that time). Likewise, Statements of Account must be recorded within ninety days after the recording of the Notice of Substantial Completion (although they can be recorded before that time). (Note that the time period for recording the Statement of Account runs from the recording of the Notice of Substantial completion and not from the time of the recording of the Notice of Contract). Also, suit must be commenced within ninety days after the filing of the Statement of Account and an attested copy of the complaint must be recorded within thirty days thereafter. Failure to register the Statement of Account or the attested copy of the complaint (and note them on the certificate of title) within the required time period will permit the notice of contract and statement of account to be dropped from the certificate of title; if a new certificate is being prepared after transfer, and the attested copy of the complaint has not been filed for registration timely, the notice of contract and the statement of account should not be carried over to the new certificate.

4. If the project is not completed, but rather is terminated, a different instrument will appear of record. This is called a "Notice of Termination".

Once the Notice of Termination is recorded the time periods being to run. All notices of contract (whether they be by the general contractor, subcontractor or sub-subcontractors) must be recorded within ninety days after the recording of the Notice of Termination (although they can be recorded before that time). Likewise, Statements of Account must be recorded within one hundred and twenty days after the recording of the Notice of Termination (although they can be recorded before that time). Note that the time period for recording the Statement of Account runs from the recording of the Notice of Termination and not from the time of the recording of the Notice of Contract). Also, suit must be commenced within ninety days after the filing of the Statement of Account and an attested copy of the complaint is recorded within thirty days thereafter.

If the various documents described above are not filed within the time periods set forth above, the lien is dissolved by statute. If it is clear from the filed documents that the time periods have not been met, the Notice of Contract and other related documents which may have been filed should be dropped from the current certificate, in the manner indicated in Guideline 21. Expired and Obsolete Encumbrances, and should not be carried forward onto the new certificate of title for the property following a transfer.

Also, as in the case of other liens, a release of the lien (MGL c. 254, sec. 10) will dispose of the lien.

A Section 2 lien can be disposed of, at least partially, in another way under the new statute. This is accomplished by utilizing what is called a "Partial Waiver and Subordination of Lien". (Section 32. The statute does not require the recording or registration of that document.)

37. Mortgages: Amendments

A District may accept for filing, without consultation with the Court, “amended mortgages”; this term includes amendments to particular provisions of the mortgage as well as “amended and restated mortgages.”

Such an instrument will often indicate a different interest rate, a different maturity date, or some other correction to, or change in the terms of the original mortgage.

An amended mortgage may also add new land to the land already subject to the mortgage. This is permitted (and such amendments may be accepted by the District without consultation with the Court) provided:

1. the amended mortgage (in some form of words) grants a mortgage of the additional land (it is insufficient merely to amend an exhibit containing the description of the land originally subject to the mortgage); and
2. the amended mortgage is noted on each certificate of title on which the original mortgage was noted and remains outstanding; and
3. the original mortgage is noted on each certificate of title for each additional parcel covered by the amendment (as to these additional parcels not previously subject to the mortgage, the original mortgage and the amendment are both noted and take effect as of the date the amendment is registered).

The notation made by the District on the memoranda of encumbrance when a mortgage amendment adds additional land should indicate which parcel(s) have become subject to the mortgage.

This guideline applies as well to amendments of other security instruments, such as conditional or collateral assignments of leases and rents.

All amendments to mortgages (and similar security instruments) must be executed and acknowledged by both the mortgagor (or the mortgagor’s successor as owner of the land) and the mortgagee (or the mortgagee’s successor as holder of the mortgage).

38. Mortgages: Discharges, Partial Releases and Assignments; Persons Signing

1. MGL c. 183, sec. 54B, effective as of April 14, 1993, has a listing of all those persons who can sign discharges, assignments and partial releases. It eliminates the necessity of votes in most cases when registering discharges, assignments and partial releases of mortgages. It applies to instruments executed prior to or on or after the effective date of the Act. Since the statute refers to persons purporting to hold various offices of an "entity", the statute is not limited to corporations, but includes other entities such as a limited partnership, a limited liability company and a limited liability partnership. The statute reads in its entirety as follows:

"A deed of release or written acknowledgment of payment or satisfaction of the debt thereby secured or a release, partial release or assignment of mortgage executed before a notary public, justice of the peace or other officer entitled by law to acknowledge instruments, whether executed within or without the commonwealth, by a person purporting to hold the position of president, vice president, treasurer, clerk, secretary, cashier, loan representative, principal, investment, mortgage or other officer, agent, asset manager, or other similar office or position, including assistant to any such office or position, of the entity holding record title thereto on behalf of such entity acting in its own capacity or as a general partner or co-venturer of the entity holding record title, shall be binding upon such entity and shall be entitled to be recorded or filed, and no vote of the entity affirming such authority shall be required to permit recording or filing."

2. Assignments and discharges executed by fiduciaries of deceased mortgagees may be accepted for registration if accompanied by a certificate of appointment of fiduciary which is no more than six (6) months old.

3. Regarding ancillary documents, such as conditional assignments of rents, refer to Guideline Number 39, Mortgages: Discharges and Assignments; Collateral Security Documents.

4. An affidavit by a Massachusetts attorney which complies with the requirement of St. 1987, c. 533 (MGL c. 183, sec. 55) constitutes a discharge of a mortgage and a release of the lien on the mortgaged premises. All of such affidavits must be approved at the Land Court in Boston before being accepted for registration.

5. There are a great many instances wherein there are minor errors in the names of parties assigning or discharging mortgages. There are cases where Corp. is used rather than Corporation, where Inc. is either omitted or included incorrectly, where N.A. or F.A. is omitted from a bank title.

Minor errors may be corrected on the document when not inconsistent with Guideline Number 4, Alteration of Documents.

In other cases, in the interest of eliminating the need for supplemental petitions and subsequent Court orders to correct the record, the following procedure is now advised:

The persons presenting such assignments or discharges should be instructed to present such instruments to the Land Court in Boston, for approval. They should present: 1.) The face sheet of the original mortgage, and 2.) The assignment or discharge. There should also be presented some proof of the correct name.

39. Mortgages: Discharges and Assignments; Collateral Security Documents

If there is noted on a certificate of title a mortgage and a conditional assignment of leases and rents (or similar accompanying financing documents such as an assignment of project documents, assignment of purchase and sale agreements, etc.) which assignment contains no express language evidencing an intent that it not be released upon the discharge of the mortgage, and a discharge of the mortgage is registered containing the words "and the note and claim thereby secured" or "acknowledges satisfaction thereof" or "acknowledges satisfaction of the same" or substantially similar language, you should drop the mortgage and all the ancillary documents when a new certificate is written. If the discharge of the mortgage does not contain a recital or other evidence that the underlying obligation has been satisfied, you must carry forward the assignment of leases and rents and/or other accompanying financing documents.

If an assignment of a mortgage includes the words "assigns said mortgage and the note and claim secured thereby", said assignment will also include the rights of the mortgagee in and to the ancillary financing documents.

You are also referred to Guideline 38, "Mortgages: Discharges, Partial Releases and Assignments; Persons Signing".

40. Mortgages and Assignments: Addresses

Every mortgage and assignment of mortgage presented for record shall contain or have endorsed on it the residence and post office address of the mortgagee or assignee, if said mortgagee or assignee is a natural person, or a business address of said mortgagee or assignee if not a natural person. MGL. c. 183, sec. 6C. The endorsement shall be recorded as part of the mortgage or assignment. However, while failure to comply will not affect the validity of any mortgage or assignment, no Register of Deeds shall accept a mortgage or assignment unless it is in compliance with these requirements.

41. Mortgages: Foreclosures

The Soldiers' and Sailors' Civil Relief Act of 1940 has been affected by Chapter 496 of the Acts of 1990 and by Chapter 142 of the Acts of 1998.

The passage of the above acts has brought about the following changes in our procedure.

1. There is no longer the necessity for bringing an action to establish compliance with the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, if the record ownership is held by the following:

- a. A corporation - either domestic or foreign.
- b. A limited partnership, limited liability partnership or limited liability company - either domestic or foreign.
- c. A trust under a written declaration, the beneficial interest under which is divided into transferable certificates of participation or shares - sometimes referred to as a Business Trust.
- d. A general partnership or joint venture of which all the general partners appear of record to be one or more of the foregoing types of entities.

In these cases, when the record owner in the certificate of title is one of the above entities and you are presented with the entry, the deed, and the Affidavit of Sale, you should proceed as follows: Check such instruments carefully according to the check list enclosed.

If in proper form then: Register and note such documents on the outstanding certificate(s) of title and issue a new certificate of title based upon the foreclosure deed.

CAVEAT: This only applies to mortgage foreclosures initiated after January 1, 1991. There is no Court involvement. The only review of documents will be made at the registry counter.

2. In all other cases, i.e., record owner is an individual or a trust without transferable shares, etc., registry personnel should proceed as follows:

A judgment by the Court that no person is entitled to the benefits of the Soldiers' and Sailors' Relief Act of 1940, as amended, should be registered and noted before or simultaneously with the acceptance of foreclosure

papers.

There will be no Court approval of the documents presented under the new statute. We will rely on the District's careful use of the checklist.

Register and note the documents on the outstanding certificate(s) of title, and then issue a new certificate of title based on the foreclosure deed.

Attached with this memo is the checklist to be used by counter personnel in taking for record foreclosure documents.

CERTIFICATE OF TITLE NO. _____

FORECLOSURE OR MORTGAGE UNDER POWER OF SALE in registered Document No. _____ as appearing in Foreclosure Deed and Affidavit, being Document No. _____ to which this sheet is annexed.

- _____ 1. Are Grantor and affiant the same party described as mortgagee in original mortgage, or an assignee of said party under assignment or assignments duly registered and endorsed on Certificate of Title No. _____ (being the present outstanding certificate)?
- _____ 2. Is the description in the Foreclosure Deed, the Notice of Sale and the original mortgage the same, or substantially the same, as in said certificate?
- _____ 3. Does the Affidavit allege a default which, so far as appears of record, may under the terms of the original mortgage, then exist, and indicate a sale at public auction to the highest bidder?
- _____ 4. Is the notice printed in a newspaper published or having a general circulation in the town or city where the land lies?
- _____ 5. Is the notice published in accordance with the requirements in the original mortgage?
- _____ 6. Are authority to sell, the Notice of Sale and the Deed subject to the same encumbrances, if any, as stated in the original mortgage? (In answering the question, a statement that the sale is to be made subject to any unpaid taxes and tax title or similar language, may be disregarded.
- _____ 7. Is the place of sale appearing in the notice authorized by the original mortgage, and does the Affidavit show that sale was made at the time and place advertised, at public auction? (If more then one lot covered by said mortgage, does publication state on which lot sale is to take place?)
- _____ 8. Was the first date of publication 21 days before the day of sale, and was the notice published once a week for at least 3 successive weeks?
- _____ 9. Is there a statement to the effect that notice of sale was sent registered mail to the owner or owners of record of the equity of redemption as of thirty days prior to the date of sale to the last address of the owner or owners of the equity of redemption and to any person of record as of thirty days prior to

the date of sale holding an interest in the property junior to the mortgage being foreclosed? If there is a statement in the Affidavit that notice was not given to the owner or owners of record of the equity of redemption or to all persons of record as of thirty days prior to the date of sale holding an interest in the property junior to the mortgage, the Affidavit should be accompanied by a waiver from said owner or said persons holding an interest in the property who did not receive notice. The Affidavit should include the following language:

"I also complied with Ch. 244, Sec. 14 of Massachusetts General Laws, as amended, by mailing the required notices certified mail, return receipt requested, with the exception of the Commonwealth of Massachusetts (Department of Revenue) and Aetna Insurance Company whose assents to the sale and waivers of the notice are attached hereto as Appendices B and C respectively."

- ____ 10. If the highest bid has been assigned, the Foreclosure Deed should run to the assignee of the Assignment of Bid. The Affidavit of Sale should include the following language:

"I sold the mortgaged premises at _____ by _____, an auctioneer, to XYZ Bank (above named) for Fifty Thousand and 00/100 (\$50,000.00) Dollars bid by XYZ Bank, being the highest bid made therefor at said auction, which bid was later assigned to John Small, as is evidenced by the Assignment of Bid to be recorded herewith."

An Assignment of Bid should be filed with the Affidavit. Said Assignment of Bid should run from the original high bidder to the assignee.

CHECKED BY _____ DATE _____

42. Mortgage Electronic Registration Systems ("MERS")

Mortgage Electronic Registration Systems, Inc. ("MERS") may from time to time present for registration mortgages which it holds in a nominee capacity for a lender (and the lender's successors and assigns).

MERS is a national electronic registry for tracking servicing rights and beneficial ownership interests in mortgage loans; it also acts as the mortgagee of record and, as such, is the nominee for both the servicer and the beneficial owners of mortgage loans in the public land records.

MERS becomes mortgagee of record in one of two ways: the first is by an assignment from a lender or servicer to MERS; the second is by being the mortgagee of record as nominee in the original security instrument when the loan is closed.

In either case the holder of the mortgage on the Encumbrance Sheet will be listed as Mortgage Electronic Registration System, Inc., without any reference to the institution for which MERS is holding the mortgage.

Registry districts should not (without approval from Boston) accept a mortgage running to MERS which does not contain language substantially the same as the language set forth below. An assignment of a mortgage to MERS does not require similar language.

Language to be included in MERS mortgages

"Borrower understands and agrees that MERS holds only legal title to the interests granted by Borrower in this Security Instrument; but, if necessary to comply with law or custom, MERS (as nominee for Lender and Lender's successors and assign), has the right: to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing or canceling this Security Instrument."

43. Orders of Conditions

The Department of Environmental Protection and the Conservation Commission of a City or Town occasionally will issue a Certificate of Partial Compliance.

Registry personnel must review Certificates of Partial Compliance carefully to determine whether or not the Certificate affects specific lots only. In that case, the Partial Certificate of Compliance should be listed on the encumbrance sheet with the notation as to what lots are affected. A Partial Certificate of Compliance which affects only specific lots should be carried forward onto the Memorandum of Encumbrances when a new Certificate is made up for one of those lots.

If the Partial Certificate of Compliance affects a particular condition or conditions of the original Order, it should be noted on the Memorandum of Encumbrances as a Partial Certificate of Compliance and should be carried forward onto the next Memorandum of Encumbrances for all of the lots affected by the original Order.

An Order of Conditions normally includes conditions which continue beyond completion of the work and issuance of a Certificate of Compliance. Accordingly, Orders of Conditions, Partial Certificates of Compliance, Extensions and Certificates of Compliance should be carried forward onto new Certificates and should not be dropped without an Order of the Court.

44. Purchase and Sale Agreements

A purchase and sale agreement or any extension of a purchase and sale agreement may be accepted for registration if the agreement or extension is acknowledged by the parties agreeing to sell or one of them.

If it is contended that a registered purchase and sale agreement is no longer in force and effect, whether by operation of MGL c. 184, sec. 17A or otherwise, the court should be consulted as to any action necessary to establish that fact of record; provided, that a release executed by the person or persons identified as the buyer in the purchase and sale agreement may, without notice to the court, be accepted for registration.

45. Registered and Recorded Instruments

After the registration of an instrument which affects both registered and recorded land, before the instrument is presented for recording it should be photocopied by registry personnel at registry expense to enable registration staff to work from the copy until the original document is returned to them after recording. A notation should be made on the original document that the original papers are to be returned to the Registry District after recording. The attorney or the examiner doing the recording should understand that the Registry District will retain the original papers after filing and if duplicate originals are needed, either certified copies should be requested or duplicate originals must be provided at the time of recording and filing.

This guideline need not be applied when one complete set of duplicate originals are presented by the registrant or in registries where the same staff perform both registration and recording.

46. Sheriff's Deeds

Sheriff's Deeds are "notation" deeds, that is, they are to be noted on the current certificate of title, and no certificate may issue thereon except by an Order of Court. MGL c. 185, sec. 85. A petition to the Court is required (see suggested form following). In cases where the grantee conveys back to the equity owner within the one year redemption period, the equity owner is free to convey under the existing certificate.

THE COMMONWEALTH OF MASSACHUSETTS

LAND COURT

PETITION FOR NEW CERTIFICATE OF TITLE
AFTER SHERIFF SALE

Case No.

Upon the petition of

_____ representing that
Certificate of Title No. _____ issued by the Registry District of
_____ County stands in the name(s) of _____
_____;

and further representing that petitioner made a special attachment on
_____ by Document No. _____ noted on Certificate of Title
No. _____. A judgment in said action was entered on
_____ and by virtue of said execution, the deputy sheriff levied upon
and sold all right, title and interest of said _____ in said
Certificate of Title as Document No. _____;

and further representing that the time within which to redeem said premises
from the said levy and sale has expired; and praying for a new certificate of title.

Signed under pains and penalties of perjury,

47. Street Address

MGL c. 185, sec. 61A requires...

All documents registered in the Land Court shall, when applicable, set forth in the margin the street address of the property affected by such document; provided, however, that failure to include such address shall not affect the validity of the document or the recording thereof.

You should require that the attorney endorse the street address on the margin of the document. The address provided may be noted on the certificate of title as the “purported” address of the property because municipalities change street names and numbers

48. Tax Takings

To establish its lien for taxes upon real estate, a city or town must register an instrument of taking or a collector's deed to itself or a private purchaser. Takings have to a large extent replaced collector's deeds.

The Department of Revenue has prescribed the forms cities and town should use when taking or selling land for nonpayment of taxes. All of the information requested by the form for a taking or a collector's deed should be provided.

Instruments of taking and collector's deeds are not valid unless registered within sixty (60) days after the taking or the date of the collector's deed. If a city or town has established the lien by registering an instrument of taking, the municipal treasurer may assign any such tax title by registering the approved form within sixty (60) days of the date of its execution. The form should be complete as to all requested information.

Should any person having an interest in land being sold for nonpayment of taxes pay to the municipal treasurer prior to foreclosure the amount of the corresponding tax title account, a completed instrument of redemption of the approved type is to be registered.

49. Tax Titles: Foreclosure of Tax Titles

To foreclose all rights of redemption on land acquired by sale or taking for taxes, the holder of the tax title to such land must file a complaint in the Land Court. As soon as possible after this filing, the plaintiff must complete and register a notice of filing complaint form; particular care should be taken to inspect this form for the case number and the date of filing. The name of the equity owner, the date of the tax taking or collector's deed, the document number assigned to such tax taking or deed, and the number of the outstanding certificate of title on which it is noted should all be recited in this form exactly as these are listed on the relevant certificate of title and encumbrance sheet. Once a final judgment in a tax lien case is noted on a particular certificate of title, nothing subsequent may be accepted for registration with respect to that certificate until the Land Court has issued an order canceling the certificate and directing a new one to be prepared. The only exception would be if the Land Court has already issued a vacation of the final judgment.

The holder of title to land found by the Commissioner of Revenue to be of low value may establish such title by filing a complaint in the Land Court, a so-called Chapter 60, Section 80B proceeding. Title to low value land is held through a deed executed by the municipal treasurer and registered within fifteen (15) days after execution if to a purchaser who was the highest bidder at a public auction of the land or within sixty (60) days after sale to a city or town. As with a complaint for foreclosure of rights or redemption, the plaintiff in low value case (Chapter 80B) must complete and register as soon after filing the complaint as possible a notice of filing complaint form. The very same items must be checked on this form as with the equivalent foreclosure form. The only difference is that the low value form has to include the date, document number, and certificate of title number for the treasurer's

deed. Upon registration of a final judgment in a low value proceeding no later instrument may be registered with respect to the particular certificate of title until an order issued from the Land Court for cancellation of this certificate.

No deed conveying property acquired by a city or town by tax title foreclosure or through the low value process is valid and acceptable for registration unless it contains a recitation that the municipal board or officer granting the deed has received a particular statement from each grantee. In this statement (the exact language is in MGL c.60, Sec. 77B), each grantee must swear under the pains and penalties of perjury that neither he nor she nor any other person gaining equity in the property has ever been convicted of arson or fire insurance fraud or is delinquent in the payment of real estate taxes to the grantor city or town.

A recitation by the board or officer that the required statement has been received by the board or officer will suffice; the text of the statement need not be given. If it is given, the statement must be checked carefully against the statute.

An additional statutory requirement for deeds out of cities or town conveying foreclosed tax title or low value land is that they must be registered within fifteen-(15) day after execution.

COMMONWEALTH OF MASSACHUSETTS
LAND COURT
PETITION FOR NEW CERTIFICATE OF TITLE
AFTER LOW VALUE SALE

Case No. _____

_____ respectfully represents _____,
married to _____, of
_____ in the County of _____ and
said Commonwealth that he/she is the holder of certain deeds given by the Town of
_____ in the County of _____ and said Commonwealth to the petitioner
dated _____ and entered as Document No. _____ respectively
noted on Certificate of Title No. _____ issued from
_____ the sale under which has been duly
determined by the Tax Commissioner for the Commonwealth of Massachusetts, to be a
sale under the provisions of MGL (Ter.Ed.) Chapter 60, Section 79, and any

amendments thereto: that the original deed for nonpayment of taxes was entered as Document No. _____ respectively, Certificate No. _____.

Wherefore your petitioner prays that said Certificate of Title No. _____ be canceled and a new certificate be issued to him/her as owner pursuant to law.

Subscribed and sworn to before me,

50. Tenancies by the Entirety

Marital status is important only in cases of tenancy by the entirety. Spouses may assign mortgages to each other (See MGL c. 209, sec. 2), may mortgage to one another (MGL c. 209, sec. 3) and otherwise may transfer their interest in the property to each other.

The interest of a tenant by the entirety can be mortgaged without the consent of the non debtor spouse. In the event of a foreclosure, the mortgagee acquires the property subject to rights of survivorship of the non debtor spouse. (*Coraccio v. Lowell Five Cents Savings Bank*, 415 Mass. 145). Accordingly, in such circumstances the foreclosure documents should be noted on the memorandum of encumbrances of the certificate of title in the name of the husband and wife, and no new certificate will issue.

A new tenancy by the entirety was created by Chapter 727 of the Acts of 1979, amending MGL c. 209, sec. 1 (effective February 11, 1980). This law does not affect pre-existing tenancies by the entirety. However, under MGL c. 209, sec. 1A, tenants by the entirety holding real property under a deed dated prior to February 11, 1980 may elect in a writing identifying the real estate by Book and Page wherein the deed is filed, to have the property treated pursuant to the provisions governing separate and marital property. The election must be executed by the grantees named as tenants by the entirety on the deed and the writing must be duly notarized and filed at the appropriate Registry District. Registry Districts should file and note such election on the Memoranda of Encumbrances of the certificate of title.

Chapter 400 of the Acts of 1989 amended MGL c. 36 by inserting a new c. 32A as follows:

“Section 32A. Whenever the register, in any communication, document or writing intended for use outside the registry, identifies a husband and wife, he shall use the name of both husband and wife and shall not use a legal phrase as a substitute for either name.

“This will be effective January 10, 1990.”

51. Trusts: Conveyances to Trustees

Deeds, mortgages and other instruments which convey title to a trustee or trustees may be accepted for registration only when accompanied by the trust instrument, except:

- (a) if the trust instrument is recorded or filed for registration in another registry district in the Commonwealth, an attested copy of the trust instrument may be presented as an alternative to the original trust instrument; or
- (b) if the trust instrument is recorded or filed for registration in the same registry district, the filed document (or the recorded land record of it) may be shown as an alternative to the original trust instrument.

The instrument of conveyance must have as grantees, mortgagees or other benefitted parties one or more trustees who are shown of record by the trust instrument to be trustees of the trust. If necessary, this showing may be made (a) by appropriate filed or recorded appointments and/or resignations of trustees, (b) by filed or recorded amendments to the trust instruments, or (c) by a certificate given by a trustee of record, provided the trust instrument allows reliance on such a certificate and the requirements for reliance set out in the trust instrument have been met.

The provisions of this guideline do not apply to any trust operating under a written instrument or declaration of trust, the beneficial interest under which is divided into transferable certificates of participation or shares.

52. Trusts: Conveyances by Trustees

A. Nominee Trust Conveyances - Trust in Same Registry District

Conveyances by Trustees of a nominee trust are acceptable if

(1) the instrument of conveyance is authorized by the terms of the trust and (a) a Trustee's Certificate¹ in substantially the form which follows Paragraph B. is submitted, or (b) the instrument of conveyance itself contains all such matters required to be set forth in a Trustee's Certificate

or

(2) Land Court approval has been obtained.

B. Nominee Trust Conveyances - Trust in Different Registry District or recorded in Registry of Deeds

Conveyances by Trustees of a nominees trust are acceptable if

(1) the instrument of conveyance is authorized by the terms of the trust and (a) attested copies of the trust declaration and all amendments thereto and all trustee resignations and appointments are submitted and (b)(i) a Trustee's Certificate¹ in substantially the form following this Paragraph is submitted, or (ii) the instrument itself contains all such matters required to be set forth in a Trustee's Certificate

or

(2) Land Court approval has been obtained (this requires the fully executed instrument and a Land Court Examiners Report on the contents and status of the trust).

¹ The Trustee's Certificate must either be acknowledged or sworn to and subscribed before a notary public, or must recite that the Trustee's Certificate is executed under the pains and penalties of perjury. The Trustee's Certificate may, but need not, provide any further information, including any information concerning the identity, capacity, or status of the trust's beneficiaries, unless the instrument involves conveyance of property for nominal consideration, in which case Guideline 53: Trusts: Trustee's Deed for Nominal Consideration also applies.

Form of Trustee Certificate for Nominee Trust

[NAME OF TRUST]

TRUSTEE CERTIFICATE

The undersigned hereby certifies as follows:

1. _____ [is/are all of the] Trustee(s) of
_____ u/d/t dated _____ and recorded with
the _____ County _____ District Registry of Deeds
[Land Court Records] at Book _____, Page _____, [or registered as
Document Number _____ as noted on [Transfer] Certificate of Title
No. _____], as amended by _____, dated _____ and
recorded with the _____ County _____ District
Registry of Deeds [Land Court Records] at Book _____, Page _____
_____, [or registered as Document Number _____ as noted on
[Transfer] Certificate of Title No. _____] "Trust".

2. The trust is in full force and effect and has not been amended or
modified, except as provided above, and has not been revoked as of the date
hereof.

3. The undersigned has [have] full power and authority and has [have]
been directed by the beneficiaries of the Trust to enter into a
sale/purchase/mortgage loan transaction with respect to certain premises
situated at _____, County, Massachusetts ("Premises"), and in
connection therewith to execute and deliver, on behalf of the Trust, any and all
documents with respect to said transaction, including, but not limited to, a deed
by the undersigned conveying the Premises to
_____ in full consideration of the sum of \$ _____ [a promissory
note of the undersigned in the amount of \$ _____ payable to
_____, and as security therefor, a mortgage of the Premises to said
lender], together with any other agreements, assignments, certificates,
affidavits, settlement statements and documents as may be necessary or
desirable in effectuating said transaction.

Executed as a sealed instrument this _____ day of _____, 2000.

Trustee and not individually

C. Trust Conveyances Other Than Nominee Trusts- Trust in Same Registry District

Trust conveyances are acceptable if the instrument is authorized by the terms of the trust. In these cases no separate Trustee's Certificate is required.

D. Trust Conveyances Other Than Nominee Trusts- Trust in Different Registry District or recorded in Registry of Deeds

Trust conveyances are acceptable if

(1) the instrument of conveyance is authorized by the terms of the trust and (a) attested copies of the trust declaration and all amendments thereto and all trustee resignations and appointments are submitted and (b)(i) a Trustee's Certificate¹ in substantially the form following this Paragraph is submitted, or (ii) the instrument itself contains all such matters required to be set forth in a Trustee's Certificate

or

(2) Land Court approval has been obtained (this requires the fully executed instrument and a Land Court Examiners Report on the contents and status of the trust).

Form of Trustee Certificate for Trusts Other than Nominee Trusts

[NAME OF TRUST]

TRUSTEE CERTIFICATE

The undersigned hereby certifies as follows:

1. _____ [is/are all of the] Trustee(s) of
_____ u/d/t dated _____ and recorded with
the _____ County _____ District Registry of Deeds
[Land Court Records] at Book _____, Page _____, [or registered as
Document Number _____ as noted on [Transfer] Certificate of Title
No. _____], as amended by _____, dated _____ and
recorded with the _____ County _____ District
Registry of Deeds [Land Court Records] at Book _____, Page _____
, [or registered as Document Number _____ as noted on
[Transfer] Certificate of Title No. _____] "Trust".

2. The trust is in full force and effect and has not been amended or modified,
except as provided above, and has not been revoked as of the date hereof.

Executed as a sealed instrument this _____ day of _____, 2000.

Trustee and not individually

53. Trusts: Trustee's Deed for Nominal Consideration

A trustee's deed containing a recitation of nominal consideration may be accepted for registration without prior Land Court approval when accompanied by a certificate or an affidavit signed by at least one of the trustees certifying that all the beneficiaries who are natural persons are of full age and are competent and that all of the beneficiaries have assented to the conveyance for nominal consideration (See the attached sample certificate.)

The proponent of the deed must establish that the trust instrument provides for reliance, by those interested in title, on such a certificate or affidavit; this may be done by showing the filed trust instrument document (or the recorded land record of it), if in the same registry district, or an attested copy of the trust instrument if filed or recorded in another district.

The requirements of this guideline address only the issue of a deed reciting nominal consideration; the requirements of other guidelines relating generally to instruments executed by trustees also must be satisfied.

I _____

Trustee of _____

under a Declaration of Trust dated _____

and registered as _____

hereby certify that:

1. Said Trust is in full force and effect.
2. All the beneficiaries of said trust who are natural persons, if any, are of full age.
3. All the beneficiaries of said trust who are natural persons, if any, are competent.
4. All the beneficiaries of said trust have consented to the transfer of the property to _____ for nominal consideration.

Signed under the pains and penalties of perjury.

Signed: _____

Dated: _____

54. UCC Financing Statements

Pursuant to c. 106, sec. 9-402, UCC statements filed against registered land should contain a description of the real estate including a lot number on a Land Court Plan and the current certificate of title, and, if the debtor is not also the owner, must show the name of the record owner. Such statement must describe the collateral and also show the name and address of both the debtor and secured party, but need be signed only by the debtor.

Per Section 9-410 all ancillary documents such as assignments, continuation statements, terminations, etc., subsequent to the original financing statement must refer to the document number of the original. Such ancillary documents must be signed by the secured party. If a person other than the original secured party signs, that document must be accompanied by a separate written assignment.

Per Sections 9-402 and 9-403 read together, if a financing statement is filed as part of or simultaneously with a mortgage it is unnecessary during the life of the mortgage to file continuation statements for such financing statement. All other financing statements are effective for five years from the date of filing only, unless a continuation statement is filed within six months prior to the expiration of said five year term.

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